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No. 25]

NEW DELHI, SATURDAY, JUNE 24, 1989/ASADHA 3, 1911

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

गृह मंत्रालय

(आंतरिक सुरक्षा विभाग)

(पुनर्वास विभाग)

नई दिल्ली, 17 मई, 1989

का. आ. 1411.—विस्थापित व्यक्ति (प्रतिकर तथा पुनर्वास)
अधिनियम, 1954. (1954 का अधिनियम संख्या 41) की धारा 31
की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय
सरकार एतद्वारा निदेश देती है कि उक्त अधिनियम की धारा 33 के
अधीन इसके द्वारा प्रयोज्य शक्तियाँ, आयुक्त-सहसचिव, भूमि और भवन
विभाग, दिल्ली प्रशासन द्वारा भी उनके अपने कार्यों के अतिरिक्त दिल्ली
संघ राज्य क्षेत्र में स्थित निष्कांत शहरी और ग्रामीण संपत्तियों और भूमि
के प्रबंध और निपटान के संबंध में प्रयोज्य होंगी।

[संख्या-1(3) विशेष सैल/89—एस. एस. II (क)]

MINISTRY OF HOME AFFAIRS

(Department of Internal Security)

(Rehabilitation Division)

New Delhi, the 17th May, 1989

S.O. 1411.—In exercise of powers conferred by Section
(1) of Section 34 of the Displaced Persons (Compensation

and Rehabilitation) Act, 1954 (Act No. 44 of 1954), the
Central Government hereby directs that powers exercisable
by it under Section 33 of the said Act, shall be exercisable
also by the Commissioner-cum-Secretary, Land and Building
Department, Delhi Administration, in addition to his/her
own duties, in respect of the management and disposal of
evacuee urban and rural properties and lands situated in the
Union Territory of Delhi.

[No. 1(3)|Spl. Cell|89-SS. II(A)]

का. आ. 1412.—निष्कांत सम्पत्ति प्रशासन अधिनियम, 1950
(1950 का 31) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए,
केन्द्रीय सरकार, इसके द्वारा दिल्ली प्रशासन के भूमि और भवन विभाग में
विशेष सचिव को विशेष सचिव के रूप में उनके अपने कार्य के अतिरिक्त
उक्त अधिनियम के द्वारा प्रदत्त उसके अंतर्गत दिल्ली संघ राज्य क्षेत्र में
स्थित निष्कांत शहरी और ग्रामीण संपत्तियों तथा भूमि के प्रबंध और
निपटान के संबंध में सहायक महाभिरक्षक को सौंपे गए कार्यों का निष्पादन
करने के उद्देश्य से सहायक महाभिरक्षक नियुक्त करती है।

[संख्या-1(3) विशेष सैल/89—एस. एस. II (घ)]

S.O. 1412.—In exercise of the powers conferred by Section
5 of the Administration of Evacuee Property Act, 1950
(Act No. 31 of 1950), the Central Government hereby ap-
point Special Secretary in the Land and Building Department
of Delhi Administration, as Assistant Custodian General for
the purpose of performing, in addition to his own duties as

Special Secretary, the functions assigned to him/her as Assistant Custodian General by or under the aforesaid Act, in respect of management and disposal of evacuee urban and rural properties and lands situated in the Urban Territory of Delhi.

[No. 1(3)/Spl. Cell/89-SS. II(D)]

का. भा. 1413.—विस्थापित व्यक्ति (प्रतिकर तथा पुनर्वास) अधिनियम, 1954 (1954 का 44) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा दिल्ली प्रशासन के भूमि और भवन विभाग में विशेष सचिव को विशेष सचिव के रूप में उनके अपने कार्यों के अतिरिक्त उक्त अधिनियम के द्वारा प्रयुक्त उसके अधीन, दिल्ली संघ राज्य क्षेत्र में स्थित निष्कांत शहरी और ग्रामीण संपत्तियों और भूमि के प्रबन्ध और निपटान के संबंध में उप मुख्य बंदोबस्त आयुक्त को सौंपे गए कार्य करने के लिए उप मुख्य बंदोबस्त आयुक्त नियुक्त करती है।

[संख्या-1(3)/विशेष सैल/89-एस. एस. II(ख)]
कुलदीप राय, उप सचिव

S.O. 1413.—In exercise of powers conferred by Sub-Section (1) of Section 3 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (Act No. 44 of 1954), the Central Government hereby appoints Special Secretary in the Land and Building Department of Delhi Administration, as Deputy Chief Settlement Commissioner for the purposes of performing, in addition to his own duties as Special Secretary, the functions assigned to him as a Deputy Chief Settlement Commissioner by or under the aforesaid Act in respect of the management and disposal of evacuee urban and rural properties and lands situated in the Union Territory of Delhi

[No. 1(3)/Spl. Cell/89-SS. II(B)]
KULDIP RAI, Under Secy.

नई दिल्ली, 17 मई, 1989

का. भा. 1414.—विस्थापित व्यक्ति (प्रतिकर तथा पुनर्वास) अधिनियम, 1954 (1954 का 44) की धारा 34 की उप धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैं जी. पी. एस. साही, मुख्य बंदोबस्त आयुक्त एतद्वारा इस विभाग की अधिसूचना संख्या 1(3) विशेष सैल 89-एस. एस. 11(ख) दिनांक 17-5-1989 द्वारा उप मुख्य बंदोबस्त आयुक्त के रूप में नियुक्त दिल्ली प्रशासन के भूमि और भवन विभाग में विशेष सचिव को मुख्य बंदोबस्त आयुक्त की निम्नलिखित शक्तियाँ सौंपता हूँ :—

- (1) उक्त अधिनियम की धारा 23 के अधीन अपील सुनने की शक्तियाँ।
- (2) उक्त अधिनियम की धारा 24 के अधीन संशोधन सुनने की
- (3) उक्त अधिनियम की धारा 28 के अधीन मामलों के हस्तांतरण की शक्तियाँ।

[संख्या-1(3)/विशेष सैल/89-एस. एस.-II (ग)]

New Delhi, the 17th May, 1989

S.O. 1414.—In exercise of powers conferred by Sub-Section (2) of Section 34 of the Displaced Persons (Compensation and Rehabilitation) Act, 1954 (Act No. 44 of 1954), I, G. P. S. Sahi, Chief Settlement Commissioner, hereby delegate to the Special Secretary in the Land and Building Department of Delhi Administration, appointed as Deputy Chief Settlement Commissioner, vide this Department's Notification No. 1(3)/Spl. Cell/89-SS-II(B), dated the 17th May 1989, the following powers of the Chief Settlement Commissioner :—

- (i) Powers to hear appeals under Section 23 of the said Act.

(ii) Powers to hear revisions under Section 24 of the said Act.

(iii) Powers to transfer cases under Section 28 of the said Act.

[No. 1(3)/Spl. Cell/89-SS II(C)]

का. भा. 1415.—विस्थापित संपत्ति प्रशासन अधिनियम 1950 (1950 का अधिनियम संख्या 31) की धारा 55 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं, जी. पी. एस. साही, महा अभिरक्षक, एतद्वारा इस विभाग की अधिसूचना संख्या 1(3) विशेष सैल 89—एस. एस.-II(घ) दिनांक 17-5-89 द्वारा निष्कांत संपत्ति के सहायक महा अभिरक्षक के रूप में नियुक्त दिल्ली प्रशासन के भूमि और भवन विभाग में विशेष सचिव को महाभिरक्षक की निम्नलिखित शक्ति संपत्ति हूँ :—

- (1) उक्त अधिनियम की धारा 24 के अंतर्गत अपील सुनने की शक्तियाँ
- (2) उक्त अधिनियम की धारा 27 के अंतर्गत संशोधन की शक्तियाँ
- (3) अधिनियम की धारा 10(2)(0) के अंतर्गत किसी निष्कांत संपत्ति के हस्तांतरण के अनुमोदन की शक्तियाँ
- (4) निष्कांत संपत्ति प्रशासन अधिनियम (केन्द्रीय) नियम 1950 के नियम 30-ए के अंतर्गत मामलों के हस्तांतरण की शक्तियाँ।

[संख्या-1(3)/विशेष सैल/89-एस. एस. II(क)]

जी. पी. एस. साही, महा अभिरक्षक

S.O. 1415.—In exercise of the powers conferred on me as Custodian General by Sub-Section (3) of Section 55 of the Administration of Evacuee Property Act, 1950 (Act No. 31 of 1950), I, G. P. S. Sahi, Custodian General: hereby delegate to Special Secretary in the Land and Building Department of Delhi Administration appointed as Assistant Custodian General vide this Department's Notification No. 1(3)/Spl. Cell/89-SS-II(D), dated 17th May, 1989, the following powers of the Custodian General :—

- (i) Powers under Section 24 of the said Act to hear appeals;
- (ii) Powers of revision under Section 27 of the said Act;
- (iii) Power of approval of transfer of any evacuee property under Section 10(2)(o) of the Act;
- (iv) Power of transfer of cases under Rule 30-A of Administration of Evacuee Property Act, (Central) Rules, 1950.

[No. 225/1/89-AVD. II]

G. P. S. SAHI, Custodian General

कार्मिक, लोक शिक्षा तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 25 मई, 1989

का. भा. 1416.—केन्द्रीय सरकार, इंड प्रविश्व संहिता, 1973 (1974 का 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री एस. रत्न सिंह, अधिवक्ता, काशीकट को मुख्य व्यक्ति सजिस्ट्रेट, एनकिलस के न्यायालय में श्री के. पी. वर्मा और चार अन्य व्यक्तियों के विरुद्ध लखन विचारण में सी० बी० आई० मामला नं० सी. 5(एस)/88के. ई. नं० के अभियोजन को चलाने के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[संख्या 225/1/89-ए. बी. डी. (II)]

MINISTRY OF PERSONNEL, P. G. & PENSIONS

(Department of Personnel & Training)

New Delhi, the 25th May, 1989

S.O. 1416.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri M. Ratna Singh, Advocate, Calicut as Special Public Prosecutor for conducting the prosecution of CBI case C. 5(S)/88-KER against Shri K. V. Varghese and 4 others pending trial in the Court of Chief Judicial Magistrate, Ernakulam.

[No. 225/189-AVD. II]

आदेश

का. आ. 1417.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित, धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए पंजाब राज्य सरकार की सहमति से, दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों और अधिकारिता का विस्तार, निम्नलिखित अपराधों के अन्वेषण के लिए, सम्पूर्ण पंजाब राज्य पर करती है:—

(क) भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम संख्या 49) के अधीन अपराध ।

(ख) ऊपर वर्णित अपराधों में से एक या अधिक अपराधों के संबंध में उससे संलग्न प्रयत्नों, दृष्टिकरण और पद्धतियों तथा उन्हीं तथ्यों से उत्पन्न होने वाले वैसे ही संयोजन के अनुक्रम में किए गए किसी अन्य अपराध या अपराधों के सम्बन्ध में ।

[संख्या 225/40/88—ए. वो. डी.-II]

ORDER

S.O. 1417.—In exercise of the powers conferred by sub-section (1) of Section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946) the Central Government, with the consent of the State Government of Punjab hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Punjab for investigation of offences as hereunder:—

(a) Offences under Prevention of Corruption Act, 1988 (Act No. 49 of 1988).

(b) Attempts, abetments and conspiracies in relation to or in connection with the one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction arising out of the same facts.

[No. 228/40/88-AVD. II]

आदेश

का. आ. 1418.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित, धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मिज़ोरम राज्य सरकार की सहमति से, दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियों और अधिकारिता का विस्तार, निम्नलिखित अपराधों के अन्वेषण के लिए, सम्पूर्ण मिज़ोरम राज्य पर करती है:—

(क) भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का अधिनियम सं. 49) के अधीन अपराध ।

(ख) ऊपर वर्णित अपराधों में से एक या अधिक अपराधों के संबंध में उससे संलग्न प्रयत्नों, दृष्टिकरण और पद्धतियों तथा उन्हीं तथ्यों में

उत्पन्न होने वाले वैसे ही संयोजन के अनुक्रम में किए गए किसी अन्य अपराध या अपराधों के सम्बन्ध में ।

[संख्या 228/40/88—ए. वो. डी.-II]

हजारा सिंह, उप सचिव

ORDER

S.O. 1418.—In exercise of the powers conferred by sub-section (1) of Section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946) the Central Government, with the consent of the State Government of Mizoram, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Mizoram for investigation of offences as hereunder:—

(a) Offences under Prevention of Corruption Act, 1988 (Act No. 49 of 1988).

(b) Attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction arising out of the same facts.

[No. 228/40/88-AVD. II]

HAZARA SINGH, Dy. Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 24 अप्रैल, 1989

प्रायकर

का.आ. 1419.—प्रायकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "सुन्दरम चैरिटीज", मद्रास को उक्त उप खण्ड के प्रयोजनार्थ कर निर्धारण वर्ष 1989-90 के लिए अधिसूचित करती है ।

[सं. 8343/का.सं. 197/89/89-आ. कर]

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 24th April, 1989

(INCOME-TAX)

S.O. 1419.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Sundaram Charities", Madras for the purpose of the said sub-clause for the assessment year 1989-90.

[No. 8343/F. No. 197/89/89-IT(AI)]

का.आ. 1420.—प्रायकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "दक्षिणेश्वर रामकृष्ण संघ, दक्षिणेश्वर, कलकत्ता" को उक्त उप खण्ड के प्रयोजनार्थ कर निर्धारण वर्ष 1989-90 के लिए अधिसूचित करती है ।

[सं. 8342/का.सं. 197/89/89-आ. कर (नि-1)]

S.O. 1420.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "The Dakshineswar Ramkrishna Sangha, Dakshineswar, Calcutta," for the purpose of the said sub-clause for the assessment year 1989-90.

[No. 8342/F. No. 9/89-IT(AI)]

नई दिल्ली, 3 मई, 1989

का.आ. 1421.—आयकर अधिनियम, 1961 (1961 का 43 की धारा 19 के खंड (2.3g) के उपखंड (5) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "गोविन्द भवन कार्यालय एकलकता" की उक्त उप खंड के प्रयोजनार्थ कर निर्धारण वर्ष 1988-89 तथा 1989-90 के लिए अधिसूचित करती है।

[म. 8348/का.मं. 197/95/89 आयकर (नं 1)]

दलीप सिंह, उप सचिव

New Delhi, the 3rd May, 1989

S.O. 1421.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Govind Bhawan Karyalaya, Calcutta" for the purpose of the said sub-clause for the assessment years 1988-89 and 1989-90.

[No. 8348/F. No. 197/95/89-IT(AI)]

DALIP SINGH, Dy. Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 17 मई, 1989

का.आ. 1422.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सकारिश पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 19 की उप धारा (2) के उपखण्ड 10 अप्रैल, 1992 तक की अवधि के लिए, यूनाइटेड बैंक आफ इंडिया, कलकत्ता पर उस सीमा तक लागू नहीं होंगे जहां तक इनका संबंध यूनाइटेड इण्डस्ट्रियल बैंक लि., कलकत्ता से इसके शेयरों का धारिता से है।

[संख्या 15/6/84-बो ओ-III]

प्राण नाथ, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 17th May, 1989

S.O. 1422.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (2) of section 19 of the said Act shall not apply to the United Bank of India, Calcutta, for a period upto the 10th April, 1992 in so far as they relate to its holding of the shares in the United Industrial Bank Ltd., Calcutta.

[No. 15/6/84-B.O. III]

PRAN NATH, Under Secy.

भारतीय रिजर्व बैंक

ग्रामीण आयोजन और श्रम विभाग

केन्द्रीय कार्यालय

वर्म्बई, 25 मई, 1989

का. आ. 1423.—भारतीय रिजर्व बैंक अधिनियम, 1934 (1934 का 2) की धारा 42 की उप धारा (6) के खंड (सी) के अनुसरण में भारतीय रिजर्व बैंक एतद्वारा निवेश देता है कि उक्त अधिनियम की अनुसूची में निम्नलिखित परिवर्तन करें, अर्थात्:

"दि समिलताहु स्टेट कौऑपरेटिव बैंक लि., शब्द के स्थान पर "दि समिलताहु स्टेट अपेक्स कौऑपरेटिव बैंक लि." शब्द रखे जायेंगे।

[धार वा सो ओ सं. आर एक 827/जे. 22-88/89]

डा. पुष्पदेव ओसा, उप गवर्नर

RESERVE BANK OF INDIA

(Rural Planning and Credit Department)

(Central Office)

Bombay, the 25th May, 1989

S.O. 1423.—In pursuance of clause (c) of sub-section (6) of Section 42 of the Reserve Bank of India Act, 1934 (2 of 1934) the Reserve Bank of India hereby directs that the following alteration shall be made in the Second Schedule to the said Act, namely:

For the words "THE TAMIL NADU STATE COOPERATIVE BANK LTD.", the words "THE TAMIL NADU STATE APEX COOPERATIVE BANK LTD." shall be substituted.

[RPCD No. RF. 827/J. 22-88/89]

Dr. P. D. OJHA, Deputy Governor

केन्द्रीय उत्पाद शुल्क समाहर्तक

अधिसूचना क्रमांक 2/89

नागपुर 15 मई, 1989

का.आ. 1424 —श्री एम.एम. इंगोले अधीक्षक, केन्द्रीय उत्पाद शुल्क समूह 'ख' समाहर्तक नागपुर, निवृत्ति की आयु प्राप्त करने पर दिनांक 30-4-89 को अपरान्ह से शासकीय सेवा से निवृत्त हुए।

[प.सं. 11(3) 5/89/स्थापना I/18688]

जीतराम कैत, उप समाहर्तक

(मार्गिक एवं स्थापना)

CENTRAL EXCISE COLLECTORATE

NOTIFICATION NO. 2/89

Nagpur, the 15th May, 1989

S.O. 1424.—Shri M. M. Ingole, Superintendent, Central Excise Group 'B' of Nagpur Collectorate having attained the age of superannuation retired from Government service on 30th April, 1989 in the afternoon.

[C. No. II(3)5/89/El. I/18688]

J. R. KAIT, Dy. Collector (P&E)

आणिष्य मंत्रालय

नई दिल्ली, 17 जून, 1989

का. आ. 1425.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैमर्स इन्स्पेक्शन सर्वे एंड सर्विलेस (इंडिया) प्राइवेट लिमिटेड, 26 डॉ/27, पार्क लेन, कलकत्ता-700016 को इससे उदात्त अनुसूची में विनिर्दिष्ट खनिज तथा अयस्क ग्रुप-II का निर्यात अनुसूची में इस अधिसूचना के प्रकाशन को तारीख से एक वर्ष का अवधि के लिए इन शर्तों के अधीन अधिकरण के रूप में मान्यता देती है और अधिकरण खनिज तथा अयस्क ग्रुप-II के निर्यात (निरिक्षण) नियम 1965 के नियम 4 के उप नियम (4) के अन्तर्गत निर्यात निरीक्षण परिपद/अधिकरण द्वारा अपनाई गई निरीक्षण पद्धति का आचरण करने के लिए इस संबंध में कलकत्ता में नामित किसी भी अधिकारी को निरीक्षण प्रमाण पत्र जारी करने के लिए पर्याप्त सुविधाएं देगा।

अनुसूची

1. मैंगनीज डायक्साइड
2. कायनाइट
3. सिलिमनाइट
4. जिनक संकेद्रित सहित कच्चा जिनक
5. निस्तप्त तथा परिवर्ध मैंगनीसाइट सहित मैंगनीसाइट
6. बैरार्डिट
7. लाल आक्साइड
8. पीला भेरक
9. स्टेतिट
10. फोल्डसपार

[फाइल सं. 5(1)/88-ईआईएडईपी]

MINISTRY OF COMMERCE

New Delhi, the 17th June, 1989

S.O. 1425.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises for a period of one year from the date of publication of this notification M/s. Inspection Survey and Surveillance (India) Pvt. Ltd., 26D/27, Park Lane, Calcutta-700016 as an agency for inspection of Minerals and Ores (Group-II) as specified in Schedule annexed hereto prior to export at Calcutta subject to the condition that the said agency shall give adequate facilities to any officer nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by the said agency in granting the certificate of inspection under sub-rule (4) of rule 4 of the Export of Minerals and Ores Group-II (Inspection) Rules, 1965.

SCHEDULE

1. Manganese Dioxide.
2. Kyanite.
3. Sillimanite.
4. Zinc Ores, including zinc concentrates.
5. Magnesite, including dead-burnt and calcined magnesite.
6. Barytes.
7. Red Oxide.
8. Yellow Ochre.
9. Steatite.
10. Feldspar.

[File No. 5(1)/88-EI&EP]

का. आ. 1426—केन्द्रीय सरकार, निजी (स्वालिटेड) निरक्षण और निरीक्षण अधिनियम, 1963 (1963 का 22) की धारा 7 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भैंसई इन्स्पेक्शन सर्वे एंड सर्विलेस (इंडिया) प्राइवेट लिमिटेड, 26डी/27, पार्क लान, कलकत्ता-700016 के भारत सरकार के बाणिज्य मंत्रालय का आ. 1270 तारीख 25 मई, 1988 की अधिसूचना में इससे उल्लेख अनुसूची-II में विनिर्दिष्ट प्रकाशित रसायन के निरीक्षण के लिए इस अधिसूचना के प्रकाशन की तारीख से एक वर्ष की अवधि के लिए इन शर्तों के अधीन अभिकरण के रूप में मान्यता देती है और अभिकरण प्रकाशित रसायन के निरीक्षण (निरीक्षण) नियम, 1965 के नियम 4 के उप नियम (4) के अंतर्गत निरीक्षण निरीक्षण परीक्षण/अभिकरण द्वारा अपनाई गई निरीक्षण प्रणालि की

जांच करने के लिए इस संबंध में कलकत्ता में नामित किसी भी अधिकारी को निरीक्षण प्रमाण पत्र जारी करने के लिए पर्याप्त सुविधाएं देगा।

[फाइल सं. 5(1)-88-ई आई एंड ई पी]

ऐ. के. चौधरी, निदेशक

S.O. 1426.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises for a period of one year from the date of publication of this notification M/s. Inspection Survey and Surveillance (India) Pvt. Ltd., 26D/27, Park Lane, Calcutta-700016 as an agency for inspection of Inorganic Chemicals specified in schedule II annexure to the notification of the Government of India, Ministry of Commerce No. S.O. 7270 dated the 25th March, 1966 prior to export at Calcutta subject to the condition that the said agency shall give adequate facilities to any officer nominated by the Export Inspection Council in this behalf to examine the method of inspection followed by the said agency in granting the certificate of inspection under sub-rule (4) of rule 4 of the Export of Inorganic Chemicals (Inspection) Rules, 1966.

[File No. 5/1/88-EI&EP]

A. K. CHAUDHURI, Director

विदेश मंत्रालय

नई दिल्ली, 22 मई, 1989

का. आ. 1427.—राजनयिक कौंसली अधिकारी (सपथ एव शुल्क) अधिनियम, 1948 (1948 का 41) की धारा 2 के खण्ड (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का मुख्य कोसलावास, जेद्दा में निजी सहायक श्री आर. पी. एस. लांबा को 16 मई, 1989 कौंसली एजेंट का कार्य करने के लिए प्राधिकृत करती है।

[स. टी. 4330/1/89]

जी. जगन्नाथन, उप सचिव (कौंसली)

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 22nd May, 1989

S.O. 1427.—In pursuance of the clause (a) of Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorise Sh. R. P. S. Lamba, P.A. in the Consulate General of India, Jeddah to perform the duties of Consular Agent with effect from 16-5-1989.

[No. T. 4330/1/89]

G. JAGANNATHAN, Dy. Secy.

ऊर्जा मंत्रालय

(कोयला विभाग)

नई दिल्ली, 24 मई, 1989

का.आ. 1428.—केन्द्रीय सरकार, कोयला खान भविष्य निधि और प्रकीर्ण उपबन्ध अधिनियम, 1948 (1948 का 46) की धारा 3क की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार के ऊर्जा मंत्रालय, कोयला विभाग की अधिसूचना सं. का.आ. 1135 तारीख 13 अप्रैल, 1987 का निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में, क्रम संख्या 10 और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्:—

"10. श्रम उपायुक्त, महाराष्ट्र सरकार, सिवर्टी सिनेमा भवन, नागपुर।"

[सं. पी 26012/1/86-प्रशा. (पीएफ) एसजी]

विजय शंकर दुबे, संयुक्त सचिव

MINISTRY OF ENERGY

(Department of Coal)

New Delhi, the 24th May, 1989

S.O. 1428.—In exercise of the powers conferred by sub-section (1) of section 3A of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 (46 of 1948), the Central Government hereby makes the following amendment in the Notification of the Government of India in the Ministry of Energy, Department of Coal No. S.O. 1135, dated the 13th April, 1987, namely :—

In the said notification, for serial No. 10 and the entries relating thereto, the following shall be substituted, namely :—

“10. Deputy Commissioner of Labour, Government of Maharashtra, Liberty Cinema Building, Nagpur.”

[No. V. 20012/1/86-Admn. I(PF) ASO]

V. S. DUBEY, Jt. Secy.

कृषि मंत्रालय

(कृषि और गृहकारिता विभाग)

नई दिल्ली, 18 मई, 1989

का.आ. 1429.—राष्ट्रपति, मूल नियमों के नियम 45 के अनुसरण में फार्म मशीनरी प्रशिक्षण और परीक्षण संस्थानों में सेवारत अधिकारियों को उनके द्वारा निवास स्थान के रूप में उपयोग के लिए निवास स्थानों के आबंटन की विनियमित करने वाले निम्नलिखित नियम बनाने हैं, अर्थात् :—

1. संक्षिप्त नाम और लागू होना :—(1) इन नियमों का संक्षिप्त नाम सरकारी निवास स्थान आबंटन (संघ के कृषि मंत्रालय के अधीन फार्म मशीनरी प्रशिक्षण और परीक्षण संस्थान) नियम, 1989 है (जिन्हें इनमें इसके पश्चात् “संस्थान” के रूप में निर्दिष्ट किया गया है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. परिभाषाएं :—इन नियमों में जब तक कि संदर्भ में अन्यथा अपेक्षित न हो,—

(क) “आबंटन” से इन नियमों के उपबन्धों के अनुसार निवास स्थान के अधिनांग के लिए अनुज्ञप्ति देना अभिप्रेत है;

(ख) “आबंटन वर्ष” से पहली जनवरी को आरम्भ होने वाला वर्ष या ऐसा अन्य अवधि अभिप्रेत है जो सक्षम प्राधिकारी द्वारा अधिसूचित की जाए,

(ग) “सक्षम प्राधिकारी” से सम्बन्धित संस्थान का संपदा निदेशक अभिप्रेत है;

(घ) “संपदा निदेशक” से वह व्यक्ति अभिप्रेत होगा जो संस्थान के निदेशक द्वारा इन नियमों के अधीन शक्तियों का प्रयोग करने के प्रयोजन के लिए इस प्रकार घोषित किया जाए;

(ङ) “पात्र अधिकारी” से प्रतिनियुक्तियों सहित संस्थान के सभी नियमित कर्मचारी अभिप्रेत है;

(च) “उपलब्धियों” से मूल नियम 45-ग में यथा परिभाषित उपलब्धियां अभिप्रेत हैं किन्तु इसमें प्रतिकरात्मक भत्ता सम्मिलित नहीं है।

स्पष्टीकरण :—किसी ऐसे अधिकारी के मामले में जो निरन्तराधीन है, उपलब्धियों में से उपलब्धियां मानी जाएंगी जो उससे उस आबंटन वर्ष के पहले दिन प्राप्त की हैं जिसमें वह निरन्तराधीन किया गया है अथवा यदि वह आबंटन वर्ष के पहले दिन ही निरन्तराधीन किया गया है तो जो उसके द्वारा उस तारीख के ठीक पहले प्राप्त की गई है :

(छ) “कुटुम्ब” से अभिप्रेत है, यथास्थिति पत्नी अथवा पति और संगान, सौतेली संतान, वैध रूप से दत्तक की गई संतान, माता पिता, भाई अथवा बहनें, जो सामान्यतया अधिकारी के साथ निवास करते हैं और जो उस पर आश्रित हैं;

(ज) “सरकार” से जब तक कि संदर्भ में अन्यथा अपेक्षित न हो, केन्द्रीय सरकार अभिप्रेत है;

(झ) “संस्थान” से ऐसा सम्पूर्ण क्षेत्र अभिप्रेत है जो केन्द्रीय फार्म मशीनरी प्रशिक्षण और परीक्षण संस्थान, बुवनी; उत्तरी क्षेत्र फार्म मशीनरी प्रशिक्षण और परीक्षण संस्थान, हिसार, दक्षिणी क्षेत्र फार्म मशीनरी परीक्षण और प्रशिक्षण संस्थान, गार्गादिने के विभागाध्यक्ष के प्रशासनिक नियंत्रण में है या कोई अन्य समरूप संस्थान, जो केन्द्रीय सरकार द्वारा स्थापित किया जाएगा और जिसको ये नियम लागू होंगे;

(ञ) “अनुज्ञप्ति फीस” से इन नियमों के अधीन आबंटित निवास स्थान के संबंध में मूल नियमों के उपबन्धों के अनुसार मासिक रूप से देय धनराशि अभिप्रेत है;

(ट) अधिकारी, इन नियमों के उपबन्धों के अधीन जिस प्रकार के निवास स्थान का पात्र है, उसके संबंध में अधिकारी की “पूर्विकता तारीख” से वह पूर्वतन तारीख अभिप्रेत है जिससे वह छुट्टी की अवधि के सिवाय निरन्तर उसी उपलब्धियों केन्द्रीय सरकार अथवा राज्य सरकार अथवा अन्य सेवा के अधीन पद पर प्राप्त करता रहा है जो उसे किसी विशिष्ट टाइप अथवा उच्चतर टाइप के आबंटन के लिए सुसंगत हैं;

परन्तु (टाइप ख, टाइप ग अथवा टाइप घ के संबंध में वह तारीख जिससे अधिकारी केन्द्रीय सरकार अथवा राज्य सरकार की सेवा में, जिसमें अन्यत्र सेवा की अवधि भी है, निरन्तर रहा है, उसकी उस टाइप के लिए पूर्विकता तारीख होगी :

परन्तु यह और कि जहां दो या अधिक अधिकारियों की पूर्विकता तारीख एक ही हो, वहां उनके बीच ज्येष्ठता उपलब्धियों की राशि के आधार पर अवधारित की जाएगी, अधिक उपलब्धियां पाने वाले अधिकारी को कम उपलब्धियां प्राप्त करने वाले अधिकारियों से अग्रता दी जाएगी और जहां उपलब्धियां समान हैं वहां ज्येष्ठता सेवाकाल की दीर्घता के अनुसार अवधारित की जाएगी;

(ड) “निवास स्थान” से संस्थान में ऐसा निवास स्थान अभिप्रेत है जो तत्समय संस्थान निदेशक के प्रशासनिक नियंत्रण में है;

(डू) शिकमी देने में किसी आबंटिनी द्वारा अन्य व्यक्ति के साथ, उस व्यक्ति द्वारा अनुज्ञप्ति फीस का संवाय करने पर अथवा उसके बिना आवास सुविधा का सहयोग करना आता है;

स्पष्टीकरण :—आबंटिनी द्वारा अपने निकट संबंधियों के साथ आवास सुविधा का सहयोग शिकमी देना नहीं होगा।

(ठ) “अस्थायी स्थानान्तरण” से ऐसा स्थानान्तरण अभिप्रेत है जिसमें अनुपस्थिति की अवधि चार मास से अधिक न हो;

(ण) “स्थानान्तरण” से संस्थान से किसी अन्य स्थान या किसी अन्य सरकार/संगठन को, जो संस्थान के विभागाध्यक्ष के प्रशासनिक नियंत्रण में नहीं है, अन्तरण अभिप्रेत है;

(त) किसी अधिकारी के संबंध में “टाइप” से निवास स्थान वा वह टाइप अभिप्रेत है जिसका/जिसकी वह इन नियमों के अधीन पात्र है।

3. ऐसे अधिकारियों को जिनके अपने मकान हैं, आबंटन—

(1) इस नियम में,—

(क) “लगाई हुई नगरपालिका” से ऐसी नगरपालिका अभिप्रेत है जो किसी स्थानीय नगरपालिका से लगी हुई है;

(ख) किसी अधिकारी या उसके कुटुम्ब के किसी सदस्य के संबंध में "मकान" से ऐसा भवन या उसका कोई भाग अभिप्रेत है जिसका प्रयोग निवास के प्रयोजनों के लिए किया जा रहा हो और जो स्थानीय नगरपालिका या किसी गरीब हुई नगरपालिका की अधिकारिता के भीतर स्थित हो।

स्पष्टीकरण--कोई भवन, जिसके किसी भाग का निवास के प्रयोजनों के लिये प्रयोग किया जा रहा है, इस खंड के प्रयोजनों के लिए इस बात के होते हुए भी कि उसका कोई भाग अतिवासीय प्रयोजनों के लिए प्रयोग में लाया जा रहा है, मकान गणना जाएगा--

(ग) किसी अधिकारी के संबंध में "स्थानीय नगरपालिका" से वह नगरपालिका अभिप्रेत है जिसकी अधिकारिता के भीतर उस अधिकारी का कार्यालय स्थित है;

(घ) किसी अधिकारी के संबंध में "कुटुम्ब के सदस्य" से यथास्थिति, पति, पत्नी या अधिकारी की उस पर अभिन्न संतान अभिप्रेत है।

(ङ.) "नगरपालिका" के अन्तर्गत नगर निगम, नगरपालिका समिति या बोर्ड, टाउन एरिया समिति या मेट्रोफाइट एरिया समिति और छावनी बोर्ड आते हैं।

(2) कोई अधिकारी जिसका या अपने नाम नाम में या अपने कुटुम्ब के किसी सदस्य के नाम में उसकी इच्छा स्थान पर गरीब हुई नगरपालिका में मकान है, उसको आवंटित सरकारी निवास स्थान के लिए अनुसूचित फीस के संदाय पर सरकारी निवास स्थान के आवंटन के लिए ऐसी दर पर जो सरकार द्वारा समय-समय पर अवधारित की जाए, पात्र होगा।

(3) जब किसी अधिकारी को सार्वजनिक निवास स्थान आवंटित कर दिया जाता है और वह या उसके कुटुम्ब का कोई सदस्य उनके इच्छा के स्थान पर या किसी गरीब हुई नगरपालिका में किसी मकान का स्वामी हो जाता है, तो ऐसा अधिकारी समया निदेशक को मकान को शिफाई देने या उसको अधिकृत किए जाने से एक मास की कालावधि के भीतर या उसके पूरा होने की तारीख में, जो भी पूर्ववर्ती हो, एक मास के भीतर इस तथ्य की सूचना देगा।

4. पति और पत्नी को आवंटन, एक दूसरे से विवाहित अधिकारियों के मामलों में पात्रता--

(1) किसी अधिकारी को, यथास्थिति, जिसकी पत्नी या जिसके पति पहले ही निवास-स्थान आवंटित किया जा चुका है, इन नियमों के अधीन कोई निवास-स्थान तब तक आवंटित नहीं किया जाएगा जब तक ऐसा निवास स्थान अव्ययित नहीं कर दिया जाता:

परन्तु यह उपनियम वहाँ लागू नहीं होगा जहाँ पति और पत्नी किसी न्यायालय द्वारा किए गए न्यायिक पुष्ककरण के आदेश के अनुसरण में पुष्क-पुष्क निवास कर रहे हैं।

(2) जहाँ दो अधिकारी, जो इन नियमों के अधीन पुष्क रूप से आवंटित निवास-स्थानों के अधिकारी हैं, एक दूसरे से विवाह कर लें वहाँ वे विवाह के एक मास के भीतर उन निवास-स्थानों में से एक अव्ययित कर देंगे।

(3) यदि निवास-स्थान का अव्ययण उपनियम (2) की अपेक्षानुसार नहीं किया जाता तो निम्नतर टाइप के निवास-स्थान का आवंटन ऐसी अवधि के अवसान पर यह समझा जाएगा और यदि निवास-स्थान एक ही टाइप के हैं तो संपदा निदेशक के विनिश्चयानुसार उसमें से एक का आवंटन ऐसी अवधि के अवसान पर यह समझा जाएगा।

(4) जहाँ पति और पत्नी दोनों ही केन्द्रीय सरकार के अधीन नियोजन में हैं, वहाँ उन दोनों में से प्रत्येक के इन नियमों के अधीन निवास स्थान के आवंटन के हक पर स्वतंत्र रूप से विचार किया जाएगा।

(5) उपनियम (1) से (4) तक में किसी बात के होते हुए भी--

(क) यदि, यथास्थिति, पत्नी या पति को, जो इन नियमों के अधीन निवास-स्थान का आवंटित है, ऐसे पूरा से, ये नियम लागू नहीं होते, एक निदेश पर बाद में निवास-स्थान संबंधी कोई आवास सुविधा आवंटित कर दी जाती है तो, यथास्थिति, पत्नी या पति ऐसे आवंटन के एक मास के भीतर उन निवास-स्थानों में से कोई एक अव्ययित कर देगा: परन्तु यह खंड वहाँ लागू नहीं होगा जहाँ पति और पत्नी किसी न्यायालय द्वारा किए गए न्यायिक पुष्ककरण के आदेश के अनुसरण में पुष्क-पुष्क निवास कर रहे हैं;

(ख) जहाँ दो अधिकारी, जो एक ही स्थान पर ऐसे पुष्क निवास स्थानों के अधिकारी हैं जिनमें से एक निवास स्थान इन नियमों के अधीन आवंटित किया गया है और दूसरा ऐसे पूरा से, जिसे ये नियम लागू नहीं होते, एक दूसरे से विवाह कर लें, वहाँ उनमें से कोई भी एक अधिकारी ऐसे विवाह के एक मास के भीतर उन निवास-स्थानों में से किसी एक को अव्ययित कर देगा;

(ग) यदि निवास-स्थान का अव्ययण खंड (क) या खंड (ख) की अपेक्षानुसार नहीं किया जाता तो साधारण पूरा में निवास-स्थान का आवंटन ऐसी अवधि से अवसान पर यह समझा जाएगा।

5. निवास-स्थानों का वर्गीकरण--इन नियमों द्वारा अव्ययण उपनियम के निवास, अधिकारी नीचे दी गई श्रेणियों में वर्गित टाइप के निवास-स्थान के आवंटन का पात्र होगा--

संस्थान में उप- अधिकारी का प्रथम या उसकी मासिक उदात्तियाँ लब्ध निवास जो उम शरीर को हों जो संबंधित आवंटन वर्ष के प्रयोजन के लिए केन्द्रीय सरकार द्वारा विनिश्चित की जाएँ

टाइप--क	950 रु. से कम
टाइप--ख	1500 रु. से कम किन्तु 950 रु. से कम नहीं
टाइप--ग	2800 रु. से कम किन्तु 1500 रु. से कम नहीं
टाइप--घ	3600 रु. से कम किन्तु 2800 रु. से कम नहीं
टाइप--ङ.	3800 रु. से कम और 3600 रु. से अधिक
टाइप--ड.	विभागाध्यक्ष।

6. आवंटन के लिए आवेदन--(1) प्रयोगशाला अधिकारी, जो

(1) जब आवेदन मंगे जाते हैं तब सभी टाइपों के निवास स्थान के लिए आवेदन विभागाध्यक्ष को उचित प्रणाली से ऐसे प्रथम में और ऐसी रीति से और ऐसी तारीख तक किए जाएँ जो विभागाध्यक्ष द्वारा विनिश्चित की जाएँ। इन नियमों में यथा प्रवृत्ता उपनियम के निवास आवंटन प्रक्रिया का तारीखों पर आधारित प्रतीका सूची के अनुसरण किया जाएगा।

(2) वह अधिकारी जो प्रथम निरुक्ति या अनुसरण पर संस्थान में प्रतिनिधित्व पर पदभार ग्रहण करता है, अपना आवेदन अपना परमार्थ ग्रहण करने के एक मास के भीतर विभागाध्यक्ष को विहित प्रथम में, यदि कोई हो, भेजेगा।

7. निवास-स्थानों का आवंटन और प्रदायताएं--

(1) इन नियमों में अव्ययण उपनियम के निवास, किसी निवास स्थान के खाली होना पर वह सज्जन अधिकारी द्वारा, अधिमानतः उम

आवेदक को आवंटित किया जाएगा जो इन नियमों के उपबंधों के अधीन उस टाइप की आवास-सुविधा का परिवर्तन चाहता है और, यदि उन प्रयोजन के लिए अपेक्षित न हो तो, उस आवेदक को आवंटित किया जाएगा जिसके पास उस टाइप की आवास-सुविधा नहीं है और जिसके उस टाइप के निवास-स्थान के लिए पूर्णिकता तारीख सबसे पहले है। यह आवंटन निम्नलिखित शर्तों पर होगा, अर्थात्:—

- (1) सक्षम प्राधिकारी उस टाइप से उच्चतर टाइप का निवास-स्थान आवंटन नहीं करेगा जिसका आवेदक नियम 5 के अधीन पात्र है ;
- (2) सक्षम प्राधिकारी किसी आवेदक को इस बात के लिए विवश नहीं करेगा कि वह जिस टाइप के निवास-स्थान का नियम 5 के अधीन पात्र है, उससे निम्नतर टाइप का निवास-स्थान स्वीकार करे ;
- (3) सक्षम प्राधिकारी, किसी निम्नतर प्रवर्ग के निवास-स्थान के आवंटन के लिए किसी आवेदक की प्रार्थना पर उसे ऐसे टाइप से ठीक निम्नतर निवास-स्थान आवंटित कर सकता है जिसके लिए आवेदक नियम 5 के अधीन, उसके लिए अपनी पूर्णिकता तारीख के आधार पर पात्र है ।

(2) यदि किसी अधिकारी के अधिभोग के निवास-स्थान को खाली करना अपेक्षित हो तो सक्षम प्राधिकारी उस अधिकारी का वर्तमान आवंटन रद्द कर सकता है और उसे उसी टाइप का अनुकूल निवास-स्थान आवंटित कर सकता है, अथवा अत्यावश्यकता की स्थिति में, उस अधिकारी के अधिभोग के निवास-स्थान के टाइप से ठीक निम्नतर टाइप का अनुकूल निवास-स्थान आवंटित कर सकता है, अथवा अत्यावश्यकता की स्थिति में, उस अधिकारी के अधिभोग के निवास-स्थान के टाइप से ठीक निम्नतर टाइप का अनुकूल निवास-स्थान आवंटित कर सकता है ।

(3) खाली निवास-स्थान को, उपर्युक्त उपनियम (1) के अधीन उसे किसी अधिकारी को आवंटित किए जाने के अतिरिक्त, अन्य पात्र अधिकारियों को, उनकी पूर्णिकता तारीखों के क्रम से, आवंटन के लिए प्रस्थापित किया जा सकता है ।

8. आवंटन या प्रस्थापना का स्वीकार न किया जाना अथवा आवंटित निवास-स्थान को स्वीकार करने के पश्चात् अधिभोग में न लेना—

(1) यदि कोई अधिकारी किसी निवास-स्थान का आवंटन आवंटन-पत्र की प्राप्ति की तारीख से पांच दिन के भीतर स्वीकार नहीं करता है अथवा स्वीकार करने के बाद भी आठ दिन के भीतर उस निवास-स्थान का कब्जा नहीं लेता है तो वह उस आवंटन-पत्र की तारीख से एक वर्ष की अवधि पर्यन्त आवंटन का पात्र न होगा ।

(2) यदि किसी अधिकारी को, जिसके अधिभोग में किसी निम्नतर टाइप का निवास-स्थान है, ऐसे टाइप का निवास-स्थान आवंटित या प्रस्थापित किया जाता है जिसके लिए वह नियम 5 के अधीन पात्र है तो वह उस आवंटन को स्वीकार कर देने पर, पूर्वतन आवंटित निवास-स्थान में रहने के लिए निम्नलिखित शर्तों पर अनुज्ञात किया जा सकता है, अर्थात्:—

- (क) ऐसा अधिकारी उस आवंटन वर्ष की शेष अवधि तक, जिस वर्ष में उसने आवंटन प्रस्थापना से इस्कार किया है, नियम 7-1(3) के अधीन दूसरे आवंटन के लिए या उसके लिए जिसके लिए उसने आवेदन किया है, पात्र नहीं होगा ;
- (ख) वर्तमान निवास स्थान छोड़ने के दौरान उस पर वही अनुज्ञापित फीस प्रभारित की जाएगी, जो उसे मूल नियम 45-क के अधीन इस प्रकार आवंटित या प्रस्थापित निवास-स्थान के

लिए संवत् करनी पड़ती अथवा वह अनुज्ञापित फीस जो उस निवास स्थान के लिए देय है जो पहले ही उसके अधिभोग में है, दोनों में से जो भी अधिक हो ।

9. आवंटन प्रभावी रहने की अवधि और तत्पश्चात् कब्जा बनाए रखने की रियायती अवधि—

- (1) आवंटन उस तारीख से प्रभावी होगा जिसकी वह अधिकारी द्वारा स्वीकार किया जाता है और तब तक प्रभावी रहेगा जब तक कि—
- (क) अधिकारी के कर्तव्यारूढ़ न रह जाने के पश्चात्, वह रियायती अवधि समाप्त नहीं हो जाती जो उपबंध (2) के अधीन अनुज्ञेय है ;
- (ख) आवंटन सक्षम प्राधिकारी द्वारा रद्द नहीं कर दिया जाता या या इन नियमों के किसी उपबंध के अधीन रद्द किया गया नहीं समझा जाता ।
- (ग) आवंटन अधिकारी द्वारा अस्थायित नहीं कर दिया जाता ;

(घ) अधिकारी निवास-स्थान का अधिभोग समाप्त नहीं कर देता ।

(2) अधिकारी उसे आवंटित निवास स्थान को, उपनियम (3) के अधीन रहने हुए, निम्न सारणी के स्तम्भ (2) की तत्स्थानी प्रविष्टि में विनिर्दिष्ट उन वटनाओं में से किसी के होने पर अपने पास रख सकता है जो उस सारणी की प्रविष्टि में विनिर्दिष्ट हैं, परन्तु यह तब जब कि वह निवास-स्थान उस अधिकारी या उसके कुटुम्ब के सदस्यों के वास्तविक उपयोग के लिए अपेक्षित हो—

सारणी

घटनाएँ	निवास-स्थान के अपने पास रखने की अनुज्ञेय अवधि
1	2
(1) पदत्याग, पदच्युति या सेवा से हटाया जाना, सेवा का पर्यवसान अथवा बिना अनुज्ञा के अग्रधिकृत अनुपस्थिति	एक मास
(2) सेवा-निवृत्ति या वान्त छुट्टी	चार मास
(3) आवंटित की मृत्यु	छह मास
(4) संस्थान से उस स्थान में या उसके बाहर, जहाँ निवास स्थान आवंटित किया गया है, किसी कार्यालय को अन्तरण	दो मास
(5) ऐसे स्थान में जहाँ निवास स्थान आवंटित किया गया है, किसी अभाव कार्यालय को स्थानान्तरण	दो मास
(6) भारत में अन्यत्र सेवा पर जाना	दो मास
(7) भारत में अस्थायी स्थानान्तरण अथवा भारत से बाहर किसी स्थान के लिए स्थानान्तरण	चार मास
(8) छुट्टी (जो निवृत्ति पूर्व, अस्वीकृत छुट्टी, चिकित्सीय छुट्टी, प्रसूति छुट्टी या राज्य कार्य छुट्टी से भिन्न हो) ।	छुट्टी की अवधि पर्यन्त किन्तु चार चार मास से अधिक नहीं ।
(9) प्रसूति छुट्टी	प्रसूति छुट्टी की अवधि पर्यन्त और अधिकतम पांच मास के अधीन रहेगी, उसके साथ संभूर की गई छुट्टी ।

- | | |
|--|--|
| 1 | 2 |
| (10) निवृत्तिपूर्व छुट्टी या मू. नि. 86 के अधीन दी गई अवधि-
कुल छुट्टी अवधि के सम-
कारी सेवकों को दी गई
अर्जित छुट्टी या मू. नि.
56 (ब) के अधीन सेवा-
निवृत्ति होने है। | पूरे औपचारिक वेतन पर छुट्टी को
पूर्ण अवधि-पर्यन्त, किन्तु सेवा
निवृत्ति पूर्व छुट्टी की दशा में
अधिकतम 180 दिन और अन्य
भारतों में चार मास जिनके
अन्तर्गत सेवा निवृत्ति की दशा में
अनुज्ञेय अवधि भी सम्मिलित है,
के अधीन रहने हूँ। |
| (11) भारत में बाहर अध्ययनार्थ
छुट्टी या प्रतिनियुक्ति | छुट्टी की अवधि-पर्यन्त किन्तु छह
मास से अधिक नहीं। |
| (12) भारत में अध्ययनार्थ छुट्टी | छुट्टी की अवधि पर्यन्त किन्तु छह
मास से अधिक नहीं। |
| (13) चिकित्सीय आधार पर
छुट्टी | छुट्टी की पूर्ण अवधि पर्यन्त |
| (14) प्रशिक्षणार्थ जाने पर | प्रशिक्षण को पूर्ण अवधि पर्यन्त |

स्पष्टीकरण-1: जब भारत में स्थानान्तरण होने या अन्यथा सेवा में जाने पर किसी अधिकारी को कोई छुट्टी संजुग की जाती है और वह नए कार्यालय में पद भार ग्रहण करने से पूर्व उस छुट्टी का उपभोग करता है तो उसे मद (1), (5), (6) और (7) के सामने वर्णित अवधि के लिए या छुट्टी की अवधि के लिए, दोनों में से जो अधिक हो, निवास-स्थान रखे रहने की अनुज्ञा दी जा सकती है।

स्पष्टीकरण-2: जब भारत में स्थानान्तरण या अन्यथा सेवा संबंधी कोई आदेश किसी अधिकारी को तब जारी किया जाता है जब वह पहले से ही छुट्टी पर है तो स्पष्टीकरण-1 के अधीन अनुज्ञेय अवधि ऐसा आदेश जारी करने की तारीख से गिनी जाएगी।

(3) जब कोई निवास स्थान उपनियम (2) के अधीन रखे रहा जाए तो अनुज्ञेय रियायतों अवधियों की समाप्ति पर वह आर्बंटन, निवाय उस दशा में जब उन अवधियों की समाप्ति के पश्चात् वह अधिकारी कतव्य भार ग्रहण कर लेता है, रद्द किया गया समझा जाएगा।

(4) जब कोई अधिकारी बिना वेतन और भत्तों के चिकित्सीय छुट्टी पर हो तो वह उपनियम (2) के नीचे दी गई मारणी की मद सं. (13) के अधीन दी गई रियायत के आधार पर अपने निवास-स्थान को अपने पास रख सकता है परन्तु यह तब जब वह ऐसे निवास-स्थान के लिए अनुज्ञप्ति फीस प्रणिमास नकद भेजता रहता है और किसी ऐसी फीस दो मास से अधिक तक न भेजने की दशा में आर्बंटन रद्द हो जाएगा।

(5) जिस अधिकारी ने उपनियम (2) के नीचे दी गई मारणी की मद (1) या मद (2) के अधीन रियायत के आधार पर निवास-स्थान अपने पास रखा है, वह किसी पात्र कार्यालय में, उक्त मारणी में विनि-
विष्ट अवधि के भीतर पुनर्नियोजित होने पर इस बात का हकदार होगा कि उसका निवास-स्थान को अपने पास रखे रहे तथा वह इन नियमों के अधीन निवास स्थान के किसी और आर्बंटन का भी पात्र होगा।

परन्तु यदि पुनर्नियोजन होने पर, अधिकारी को उपलब्धियां हमनी हो जिनके आधार पर वह उस टाइप के निवास-स्थान का हकदार न हो जो उसके अधिभोग में है, तो उसे निम्नतर टाइप का निवास-स्थान आर्बंटन किया जाएगा।

(6) उपनियम (2) या उपनियम (3) या उपनियम (5) में किसी बात के होने हुए भी, जब कोई अधिकारी पदच्युत किया जाता है या सेवा से हटाया जाता है या जब उसकी सेवा पर्यवसित की जाती है तो सक्षम प्राधिकारी यदि उनका यह समाधान हो जाता है कि ऐसा करना लोकहित में आवश्यक और समीचीन है, ऐसे अधिकारी को किए गए निवास-स्थान का आर्बंटन

या तो तुरंत रद्द कर सकता है या उस तारीख से रद्द कर सकता है जो उपनियम (2) के नीचे दी गई मारणी की मद (1) में निर्दिष्ट एक मास की अवधि की समाप्ति से पूर्वतर है और जो वह निर्दिष्ट करता है।

10. अनुज्ञप्ति फीस विभाजक उपबंध

(1) जब आवास-सुविधा या अनुकाली आवास-सुविधा का आर्बंटन स्वीकार कर लिया जाए तो अनुज्ञप्ति फीस का दायित्व अधिभोग की तारीख से अथवा आर्बंटन की तारीख से आठवें दिन में, जो भी पूर्वतर हो, प्रारंभ होगा।

जो अधिकारी आर्बंटन स्वीकार करने के पश्चात् उस आवास-सुविधा का कब्जा आर्बंटन-पत्र की प्राप्ति की तारीख से आठ दिन के भीतर नहीं लेता उसने उस तारीख से बारह दिन की अवधि अनुज्ञप्ति फीस को जाएगी।

परन्तु इसमें की गई कोई बात उस दशा में लागू नहीं होगी जब केन्द्रीय लोक निर्माण विभाग यह प्रमाणित करे कि आवास-सुविधा अधिभोग के योग्य नहीं है और उसके परिणाम स्वरूप अधिकारी पूर्वोक्त अवधि के भीतर आवास सुविधा को अधिभोग में नहीं ले रहा है।

(2) जहां एक निवास-स्थान के अधिभोगी किसी अधिकारी को दूसरा निवास-स्थान आर्बंटन किया जाता है वहां पहले निवास-स्थान का आर्बंटन नए निवास स्थान का अधिभोग प्राप्त करने की तारीख से रद्द समझा जाएगा। तथापि, निवास-स्थान के परिवर्तन के लिए वह पहले निवास-स्थान को उस दिन तथा उसके बाद के एक दिन तक, बिना अनुज्ञप्ति फीस दिए, अपने पास रख सकता है।

परन्तु यदि पूर्वोक्त निवास-स्थान यथा पूर्वोक्त पञ्चावर्षीय तारीख तक रिक्त नहीं किया जाता है तो अधिकारी निवास-स्थान, सेवा, फर्नीचर के उपयोग और अधिभोग तथा बाग प्रभारों के लिए बाजार अनुज्ञप्ति फीस के बराबर, जो केन्द्रीय सरकार के कृपि के संघ मंत्रालय द्वारा समय-समय पर अवधारित की जाए, उस तारीख से जब उसे वह पञ्चावर्षीय निवास-स्थान का कब्जा लेता है, नुकसानी का संदाय करने के लिए बायीं होगा।

11. निवास-स्थान के खाली किए जाने तक अधिकारी का अनुज्ञप्ति फीस देने का दायित्व दायित्व तथा प्रस्थाई अधिकारियों द्वारा प्रतिभू दिया जाता।

(1) जिस अधिकारी को निवास-स्थान का आर्बंटन किया जाए उस पर उसकी अनुज्ञप्ति फीस का तथा उस नुकसान का दायित्व होगा जो उचित टूट-फूट के अनिवार्य हो और जो उस निवास-स्थान को अथवा सरकार द्वारा उसमें किए गए फर्नीचर, फिक्सचर, फिटिंग या सेवा-व्यवस्था को उस अवधि के दौरान पहुंचती है जब निवास-स्थान उसे आर्बंटन कर दिया जाता है और उसे आर्बंटन रहता है या, जहां आर्बंटन इन नियमों के किसी उपबंध के अधीन रद्द कर दिया गया हो वहां, जब तक निवास-स्थान तथा उससे संलग्न उपगृह खाली करके उनका पूर्णतः खाली रूप में कब्जा सरकार को वापस नहीं कर दिया जाता।

(2) जहां वह अधिकारी जिसे निवास-स्थान आर्बंटन किया गया है न तो स्थायी सरकारी सेवक है और न स्थायीवत् वहां वह एकप्रतिभू महित, केन्द्रीय सरकार द्वारा इस निमित्त विहित प्रहण में, प्रतिभूति-पत्र निष्पादित करेगा यह प्रतिभू केन्द्रीय सरकार के अधीन सेवा करने वाला स्थायी सरकारी सेवक होना चाहिए। यह प्रतिभूति-पत्र अनुज्ञप्ति फीस तथा अन्य ऐसे प्रभारों के संदाय के लिए होगा जो उस निवास-स्थान और अन्य सेवाओं की बाबत तथा उसके बदले में किए गए किसी अन्य निवास-स्थान को बाबत उसके द्वारा देय हों।

(3) यदि प्रतिभू सरकारी सेवा में नहीं रह जाता या दिवालिया हो जाता है या किसी अन्य कारण से उपलब्ध नहीं रह जाता है तो अधिकारी किसी अन्य प्रतिभू द्वारा निष्पादित एक नया बन्धपत्र उस घटना या तथ्य

की जानकारी प्राप्त होने की तारीख से तीस दिन के भीतर देगा, और यदि वह ऐसा न करे तो, जब तक कि सक्षम प्राधिकारी अन्यथा विनियम न करें, उस निवास-स्थान का उसे आर्बंटन उस घटना की तारीख से रद्द किया गया समझा जाएगा।

12. आर्बंटन का अभ्यर्पण और सूचना की अवधि:

(1) अधिकारी ऐसी सूचना दे कर, जो निवास-स्थान को खाली करने की तारीख से कम से कम दस दिन पूर्व सक्षम प्राधिकारी के पास पहुँच जाए, किसी भी समय आर्बंटन को अभ्यर्पित कर सकता है। निवास स्थान का आर्बंटन उस दिन के पश्चात्, जिसको पत्र संपदा निदेशक को प्राप्त होता है, ग्यारहवें दिन से या पत्र में विनिर्दिष्ट तारीख से, जो भी पश्चात्कर्ती हो, रद्द किया गया समझा जाएगा। यदि अधिकारी सम्यक् सूचना न दे तो वह दस दिन की, अथवा दस दिन की सूचना देने में जितने दिन की कामी हो उतने दिन की अनुज्ञप्ति फीस देने के लिए उत्तदायी होगा, परंतु संपदा निदेशक कम अवधि को सूचना स्वीकार कर सकता है।

(2) उपनियम (1) के अधीन निवास-स्थान अभ्यर्पित करने वाले अधिकारी के संबंध में, उसी स्टेशन पर सरकारी आवास-सुविधा का आर्बंटन करने के लिए, ऐसे अभ्यर्पण की तारीख से एक वर्ष की कालावधि तक पुनः विचार नहीं किया जाएगा।

13. निवास-स्थान का परिवर्तन:

(1) जिस अधिकारी को इन नियमों के अधीन निवास स्थान का आर्बंटन किया गया है वह आवेदन कर सकता है कि उसको बदलने में उसी टाइप का अधीन उस टाइप का जिसका पाव वह नियम 5 के अधीन है, जो भी निम्नतर हो, निवास-स्थान दिया जाए। किसी अधिकारी को आर्बंटित एक टाइप के निवास-स्थान की बावत केवल एक बार से अधिक परिवर्तन की अनुज्ञा नहीं दी जाएगी।

(2) परिवर्तन के लिए वे सब आवेदन जो संपदा निदेशक द्वारा विहित प्रारूप में किए गए हों और किसी कैलेंडर मास के उत्तमखें दिन तक प्राप्त हों, अगले मास की प्रतीक्षासूची में सम्मिलित किए जाएंगे इस नियम के प्रयोजनों के लिए, वे सम्मिलित किए गए हों, समुच्चयित रूप से उन अधिकारियों से ज्येष्ठ होंगे जिनके नाम पश्चात्सूचि मास की सूची में सम्मिलित किए जाते हैं। किसी विशिष्ट मास की सूची में सम्मिलित किए गए अधिकारियों को परस्पर ज्येष्ठता उनकी पूर्विकता तारीखों के क्रम से अवधारित की जाएगी।

(3) परिवर्तन का अवसर, उपनियम (2) के अनुसार अवधारित ज्येष्ठता के क्रम से तथा अधिकारियों को अपनी पसंद का यथासंभव ध्यान रखते हुए दिया जाएगा।

परंतु निवास-स्थान का कोई परिवर्तन अधिवर्षिता की तारीख के ठीक छह मास पूर्व की अवधि के दौरान अनुज्ञा नहीं किया जाएगा।

(4) यदि कोई अधिकारी निवास-स्थान के परिवर्तन को प्रस्थापित या आर्बंटन जारी किए जाने के पांच दिन के भीतर उसे स्वीकार नहीं करता तो उसके नाम पर उस टाइप के निवास-स्थान के परिवर्तन के लिए पुनः विचार नहीं किया जाएगा।

(5) जो अधिकारी, निवास-स्थान का परिवर्तन स्वीकार करने के पश्चात् उसका कब्जा नहीं लेता उससे ऐसे निवास-स्थान के लिए नियम 10 के उपनियम (1) के उपबंधों के अनुसार अनुज्ञप्ति फीस ली जाएगी जो, उस निवास-स्थान के लिए, जो पहले ही उसके कब्जे में है, और जिसका आर्बंटन बराबर बना रहेगा, मूल नियम 45-क के अधीन प्रामाण्य अनुज्ञप्ति फीस के अनिवार्य होगी।

14. कुटुम्ब के सदस्य की मृत्यु की दशा में निवास-स्थान का परिवर्तन:

नियम 13 में किसी बात के होने हुए भी, यदि किसी अधिकारी के कुटुम्ब के किसी सदस्य की मृत्यु हो जाती है और यह निवास-स्थान के परिवर्तन के लिए आवेदन ऐसी घटना के तीन मास के भीतर करता है तो उसे निवास स्थान के परिवर्तन की अनुज्ञा दी जा सकती है परंतु यह परिवर्तन उगी टाइप के निवास स्थान में तथा उसी संज्ञित पर होगा जिस टाइप का निवास स्थान उस अधिकारी को पहले से आर्बंटित है।

15. निवास-स्थानों का पारस्परिक विनियम:

जिन अधिकारियों को इन नियमों के अधीन एक ही टाइप के निवास स्थान आर्बंटित किए गए हैं, आवेदन कर सकते हैं कि उन्हें अपने निवास-स्थानों का पारस्परिक विनियम करने की अनुज्ञा दी जाए। जब इस बात की उचित प्रत्याशा हो कि दोनों अधिकारी ऐसे विनियम के अनुमोदन की तारीख से कम से कम छह मास तक संस्थान में कर्तव्यरत रहेंगे और पारस्परिक रूप से विनियम में प्राण अपने निवास-स्थानों में रहेंगे तब पारस्परिक विनियम की अनुज्ञा दी जा सकती है।

16. उन स्थानों के लिए स्थानान्तरण जहाँ कुटुम्ब नहीं रखा जा सकता:

यदि किसी अधिकारी का स्थानान्तरण किसी ऐसे स्थान को किया जाता है जहाँ उसे अपना कुटुम्ब साथ ले जाने के लिए सरकार द्वारा अनुज्ञा नहीं दी जाती या गलाह नहीं दी जाती और इन नियमों के के अधीन उसे आर्बंटित निवास-स्थान उसकी संतान की वास्तविक शिक्षा संबंधी आवश्यकताओं के लिए कुटुम्ब द्वारा अपेक्षित है तो उसे, प्रार्थन करने पर, संस्थान में अपनी संतान के चालू शैक्षणिक सत्र के अंत तक मू. नि. 45-क के अधीन अनुज्ञप्ति फीस के संशय पर निवास-स्थान रखने के लिए अनुज्ञा दी जा सकती है।

17. निवास-स्थान का रख-रखाव

जिस अधिकारी को निवास-स्थान का आर्बंटन किया गया है वह उसे और परिस्तरों को सक्षम प्राधिकारी के समाधानप्रद रूप में साफ बना मे रखेगा। ऐसा अधिकारी केन्द्रीय सरकार या केन्द्रीय लोक निर्माण विभाग द्वारा जारी किए गए अनुदेशों के विरुद्ध कोई बूझ, शाड़ी या पौधे न तो उगाएगा और न उस निवास-स्थान से संलग्न किसी बाग, महुन या चारदीवारी में किसी विद्यमान बूझ या शाड़ी को काटेगा या छाटेगा। ऐसा वह केन्द्रीय लोक निर्माण विभाग की पूर्ण विरहित अनुज्ञा से संबंधित अधिकारी को जोखिम और लागत पर ही करेगा, अन्यथा नहीं।

18. निवास-स्थान का शिकमो देना और महीनाग:

(1) कोई अधिकारी अपने का आर्बंटित निवास-स्थान या उससे संलग्न उपभूतों, गैरेजों और अस्तबलों का सहयोग इन नियमों के अधीन निवास-स्थान के आर्बंटन के पात्र केन्द्रिय सरकार के कर्मचारियों के साथ ही करेगा। मेक-निवासों (या क्वार्टरों), उपभूतों, गैरेजों और अस्तबलों का उपयोग केवल उचित प्रयोजनों के लिए, जिनके अंतर्गत आर्बंटितों के सेवकों का निवास भी है, या अन्य ऐसे प्रयोजनों के लिए किया जाएगा जिनका सम्पदा निदेशक अनुज्ञा दे।

(2) कोई अधिकारी अपने सम्पूर्ण निवास-स्थान का शिकमो नहीं देगा।

परंतु छुट्टी पर जाने वाला अधिकारी अपने निवास-स्थान में किसी अन्य अधिकारी को, जो सरकारों आवास-सुविधा का सहयोग करने के लिए पात्र है, देखभाल करने वाले के रूप में, नियम 9 (2) में विनिर्दिष्ट अवधि पर्यन्त (किन्तु छह मास से अधिक नहीं) रख सकता है।

(3) जो अधिकारी अपने निवास-स्थान का सहयोग करे या उसे शिकमो दे वह ऐसा अपनी जेबिम और उत्तरदायित्व पर करेगा और उस निवास-स्थान की बाबत वे कोई अनुज्ञप्ति फीस देने के लिए और

ऐसे किसी नुकसान के लिए वैयक्तिक रूप से उत्तरदायी बना रहेगा जो निवास-स्थान का था उनके प्रमोशनार्थी या भूमियों को या सरकार द्वारा उभरने को गई सेवा व्यवस्थाओं का पट्टा और जो उचित टूट-फूट के प्रतिरक्षित हो। कोई पराधिकार परीक्षण संकटों, प्रशिक्षण कार्य या संस्थान के माध्यम से फर्मों से संबंधित किसी अन्य कार्य के लिए संस्थान की सलाह करने वाले फर्मों के किसी प्रतिनिधि को अपने साथ ठहरने का अनुज्ञा नहीं देगा।

19. पण/पत्रों का प्रभाव :

कोई अधिकारी जिसको इन नियमों के अधीन निवास-स्थान आवंटित किया गया है, सम्पदा निदेशक की लिखित पूर्ण अनुज्ञा के बिना उसकी आवंटित निवास-स्थान में किसी किसी का कोई पण/पत्रों तो रखेगा/न पावेगा। कोई आवंटित स्थावर आर को ऐसी रीति से नहीं रखेगा जो प्रति संकट के लिए मुनासिब है। इन नियमों के उल्लंघन करने वाले अधिकारी के साथ नियमों और शर्तों का भंग करने के परिणामों से संबंधित नियम 20 के उल्लंघनों के अधीन कार्यवाही को जाएगा।

20. नियमों और शर्तों का भंग करने का परिणाम :

(1) यदि वह अधिकारी जिसे निवास-स्थान आवंटित किया गया है, अप्राधिकृत रूप से निवास-स्थान शिको देता है या सहयोगी से अनुज्ञा प्राप्त करने के बिना उसे देता है जिसे सम्पदा निदेशक अत्यधिक समझता है अथवा निवास-स्थान के किसी भाग में कोई अप्राधिकृत निष्पत्ति करता है अथवा निवास-स्थान या उसके किसी भाग का उपयोग उन प्रयोजनों से भिन्न प्रयोजनों के लिए करता है जिनके लिए वह है अथवा विद्युत या जल के कनेक्शन का विनाश करता है अथवा इन प्रयोगों के नियमों या आवंटन के निबंधनों और शर्तों का भंग करता है अथवा किसी ऐसे प्रयोजनों के लिए, जिन्हें संपदा निदेशक अनुज्ञा समझे, निवास-स्थान या परिसर का उपयोग करता है या किए जाने को अनुज्ञा देकर नुकसान पहुंचाता है अथवा स्वयं ऐसा आचरण करता है जो संपदा निदेशक की राय में उन अधिकारों के पट्टासियों से गतिपूर्ण संबंधों को बनाए रखने पर प्रतिकूल प्रभाव डालने वाला है अथवा आवंटन प्राप्त करने की वृत्ति से किया आवेदन या निश्चित कथन में कोई गलत जानकारी जानबूझकर देता है, तो संपदा निदेशक, उन अनुशासनिक कार्यवाही पर प्रतिकूल प्रभाव डाले बिना जो उन अधिकारी के विरुद्ध की जा सकती हो, निवास-स्थान का आवंटन रद्द कर सकता है।

स्पष्टीकरण :— इस उपनियम में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो, "अधिकारी" पर के संदर्भ उनमें फुटूम्ब का कोई सदस्य और ऐसे अधिकारियों को माध्यम से देवा करने वाला कोई व्यक्ति भी है।

(2) यदि कोई अधिकारी उसे आवंटित निवास-स्थान को या उनके किसी भाग को या उनमें संयोजित किसी उद्गृह, गैरेज या अस्तबल को इन नियमों का उल्लंघन करके शिको देता है तो, ऐसी किसी अन्य कार्यवाही पर प्रतिकूल प्रभाव डाले बिना जो उसके विरुद्ध की जा सकती हो, उसने अपनी अधिन अनुज्ञा प्राप्त की जा सकती है, जो मूल नियम 45-क के अधीन मानक अनुज्ञा प्राप्त फॉर्म के चार गुना से अधिक न हो। प्रत्येक मामले में इन बात का विनिश्चय कि कितनी अनुज्ञा प्राप्त फॉर्म बनाने की जाएगी और किस अवधि के लिए बनाने की जाएगी संपदा निदेशक गुणागुण के आधार पर करेगा। इसके अतिरिक्त उस अधिकारी को अविध्य में ऐसी विनिश्चित अवधिपर्यंत, जो संपदा निदेशक द्वारा विनिश्चित की जाए निवास-स्थान का सहयोग करने से विवजित किया जा सकता है।

(3) जहाँ आवंटितों द्वारा परिसर के अप्राधिकृत रूप से शिको दिए जाने के कारण आरंभ को रद्द करने की कार्यवाही की जाती है वहाँ आवंटितों तथा उनके साथ उसमें निवास करने वाले किसी अन्य व्यक्ति को परिसर को छोड़ दिए जाने की तारीख या आवंटन रद्द करने के आदेश की तारीख से, जो भी पूर्वतन हो, साठ दिन की अवधि समाप्त होने पर, आवंटन रद्द हो जाएगा।

(4) जहाँ निवास-स्थान का आवंटन ऐसे आचरण के कारण रद्द किया जाए जो पट्टासियों से गतिपूर्ण संबंध बनाए रखने पर प्रतिकूल प्रभाव डालने वाला हो वहाँ, उस अधिकारी को संपदा निदेशक के विवेकानुसार उसी वर्ष का अन्य निवास-स्थान किया अन्य स्थान में आवंटित किया जा सकता है।

(5) संपदा निदेशक इन नियमों के उपनियम (1) से (4) तक के अधीन सभी कार्यवाहियों या कोई कार्यवाही करने के लिए, तथा ऐसे अधिकारियों को, जो नियमों का उल्लंघन करता जारी किए गए अनुज्ञा का भंग करता है, तब तक से अधिक की अवधि के लिए निवास-स्थान के आवंटन के लिए अग्रत घातित करने के लिए और भी, शक्य होगा।

(6) जहाँ इन नियमों के अधीन कोई शास्त्र सम्पदा निदेशक द्वारा अधिरोपित का जाता है वहाँ व्यक्ति व्यक्ति उनके द्वारा शास्त्र अधिरोपित करने वाले आदेश को प्राप्त के साठ दिन के भीतर कुर्पा के संघ मंत्रालय में महातरी विभाग के सारवाधक मुख्यालय के पास अभ्यावेदन फाइल कर सकते हैं।

(7) शास्त्र अधिरोपित करने वाला मूल आदेश तब तक बंध रहेगा जब तक वह अभ्यावेदन के परिणामस्वरूप उलान्तरित या विवक्षित न हो जाए।

21. आवंटन के रद्द किए जाने का पणचात् निवास स्थान में बने रहने :

जहाँ कोई आवंटन इन नियमों के किता उल्लंघन के अधीन रद्द किया जाता है या रद्द कर दिया गया सम्झा जाता है और तत्पश्चात् वह निवास स्थान उस अधिकारी के, जिसे वह आवंटित किया गया हो या उसके माध्यम से देवा करने वाले व्यक्ति के अधिरोपित में बना रहता है या बना रहा हो वहाँ ऐसा अधिकारी उस निवास-स्थान, सेवाओं, फर्मों के उपयोग और उपयोग के लिए उनका नुकसान और बाग, प्रयोगों का, जो केन्द्रीय सरकार द्वारा समय-समय पर अवधारित बाजार अनुज्ञा फॉर्म के बराबर या उस अनुज्ञा प्राप्त फॉर्म के दुगुने हों भिन्ना वह संवाद कर रहा था, जो भी अधिक हो, संवाद करने का दायी होगा।

परंतु किसी अधिकारी को, विशेष दशाओं में मूल नियम 45-क के अधीन मानक अनुज्ञा फॉर्म से दोगुना या मूल नियम 45-क के अधीन मूल को गई अनुज्ञा प्राप्त फॉर्म से दोगुना, जो भी अधिक हो, देने पर नियम 9 (2) के अधीन अनुज्ञा फॉर्मविधि में सारे छह मास से अधिक की कालावधि के लिए निवास-स्थान रखने के लिए सम्पदा निदेशक द्वारा अनुज्ञा दिया जा सकता है।

22. इन नियमों के जारी किए जाने के पश्चात् किए गए आवंटन का बताना :

निवास-स्थान के किसी ऐसे विधिमध्य आवंटन के बारे में जो इन नियमों के प्रारम्भ के ठीक पूर्व तत्समय प्रवृत्त नियमों के अधीन अस्तित्व में हो, यह समझा जाएगा कि वह इन नियमों के अधीन सम्पूर्ण रूप से किया गया आवंटन है भले ही वह अधिकारी जिसे वह आवंटन किया गया हो, नियम 5 के अधीन उस दाय के निवास-स्थान का हकदार न हो और उस आवंटन और उस अधिकारी के संबंध में इन नियमों के सभी पूर्वगामी उपबंध तदनुसार लागू होंगे।

23. नियमों का निर्वहन

यदि इस प्रभाग के नियमों निर्वहन की बाबत कोई प्रश्न उठता है तो उसका विनिश्चय केन्द्रीय सरकार के संघ मंत्रालय द्वारा किया जाएगा।

24. नियमों का शिथिलीकरण

संस्थान के विभाग का प्रधान ऐसे कारणों से जो लेखबद्ध किए जाएं इस प्रभाग के नियमों के सभी उपबंधों को या उनमें से किसी को किसी अधिकारी या निवास-स्थान के मामले में या अधिकारियों के किसी दायें या निवास-स्थानों के किसी टाइट के बारे में शिथिल कर सकती।

25. शक्तियां या कृत्यों का प्रत्यायोजन

केन्द्रीय सरकार इस प्रभाग के नियमों द्वारा उसे प्रदत्त कोई शक्ति या सभी शक्तियां अपने नियंत्रणाधीन किसी अधिकारी को ऐसी शर्तों के अधीन प्रत्यायोजित कर सकती जिन्हें प्रत्यायोजित करना बहुत ठीक समझे।

[सं. 11-24/83—मशीनरी (प्रशासन)]

बी. के. पुत्री, प्रवर सचिव

MINISTRY OF AGRICULTURE

(Department of Agriculture and Cooperation)

New Delhi, the 18th May, 1989

S.O. 1429.—In pursuance of rule 45 of the Fundamental Rules, the President hereby makes the following rules regulating the allotment to officers serving in the Farm Machinery Training and Testing Institutes or use by them as residences, namely:—

1. Short title and application.—(1) These rules may be called the Allotment of Government Residence (Farm Machinery Training and Testing Institutes under Union Ministry of Agriculture) Rules, 1989 (hereinafter referred to as "Institutes").

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.—In these rules unless the context otherwise requires :

- (a) 'Allotment' means the grant of licence to occupy a residence in accordance with the provisions of these rules ;
- (b) 'Allotment Year' means the year beginning on 1st January or such other period as may be notified by the competent authority ;
- (c) 'Competent Authority' means the Director of Estates of the Institute concerned ;
- (d) 'Director of Estates' shall mean the person so declared by the Director of the Institute for the purpose of exercise of the powers under these Rules ;
- (e) 'Eligible Officer' means all regular employees of the Institute including deputationists ;
- (f) 'Emoluments' means the emoluments as defined in Fundamental Rules 45-C, but excluding the compensatory allowance.

Explanation.—In case of an officer who is under suspension the emoluments drawn by him on the first day of the allotment year in which he is placed under suspension, or if he is placed under suspension on the first day of the allotment year, the emoluments drawn by him immediately before that date shall be taken as emoluments.

- (g) 'Family' means the wife or husband, as the case may be, and children, step-children, legally adopted children, parents, brothers or sisters as ordinarily reside with and are dependent on the officer ;
- (h) 'Government' means the Central Government unless the context otherwise requires ;
- (i) 'Institute' means the whole area under the administrative control of the Head of the Department, of the

Central Farm Machinery Training and Testing Institute, Budni; the Northern Region Farm Machinery Training and Testing Institute, Hissar; the Southern Region Farm Machinery Training and Testing Institute, Garladinne, or any other similar Institute that will be set up by the Central Government and to which these rules shall be applied.

- (j) Licence fee means the sum of money payable monthly in accordance with the provisions of the Fundamental Rules in respect of a residence allotted under these rules ;
- (k) 'Priority Date' of an officer in relation to a type of residence to which he is eligible under the provisions of these rules means the earliest date from which he has been continuously drawing emoluments relevant to a particular type or a higher type in a post under the Central Government or State Government or on foreign service, except for the periods of leave ;

Provided that in respect of a (Type 'B' Type 'C' or Type 'D') residence, the date from which the Officer has been continuously in service under the Central Government or State Government including the periods of foreign service shall be his priority date for that type ;

Provided further that where the priority date of two or more officers is the same, seniority among them shall be determined on the basis of amount of emoluments, the officer in receipt of the higher emoluments, taking precedence over the officer in receipt of lower emoluments; and where the emoluments are equal, by the length of service.

- (l) Residence means the residence for the time being at Institute under the administrative control of the Director of the Institute.
- (m) 'Subletting' include sharing of accommodation by an allottee with another person with or without payment of licence fee by such other person ;

Explanation.—Any sharing of accommodation by an allottee with close relations shall not be deemed to be subletting.

- (n) 'Temporary Transfer' means a transfer which involves an absence for a period not exceeding four months
- (o) 'Transfer' means a transfer from the Institute to any other place or any other Government organisation which is not under the administrative control of the Head of the Department of the Institute
- (p) 'Type' in relation to an officer means the type of residence to which he/she is eligible under these rules.

3. Allotment to house owning officers.—(1) In this rule.—

- (a) "adjoining municipality" means any municipality contiguous to a local municipality;
- (b) "house" in relation to an officer or member of the family means a building or part thereof used for residential purposes and situated within the jurisdiction of a local municipality or of any adjoining municipality;

Explanation.—A building, part of which is used for residential purposes, shall be deemed to be a house for the purposes of this clause notwithstanding that any part of it is used for non-residential purposes :—

- (c) "Local municipality" in relation to an officer means the municipality within whose jurisdiction his office is located;
- (d) "Member of Family" in relation to an officer means the wife or husband, as the case may be, or a dependent child of the officer;

- (c) "Municipality" includes a municipal corporation, a municipal committee or board, a town area committee, a notified area committee, and a cantonment board.

(2) An officer owning a house either in his own name or in the name of any member of his family at the place of his duty or in an adjoining municipality shall be eligible for allotment of Government residence on payment of licence fee for the Government accommodation allotted to him at such rate as may be determined from time to time by the Government.

(3) When after a Government residence has been allotted to an officer, he or any member of his family becomes owner of a house at the place of his duty or in an adjoining municipality, such officer shall notify the fact to the Director of Estates within a period of one month from the date the house is let out or occupied, or the date of completion, whichever is earlier.

4. Allotment to husband and wife, eligibility in case of officers who are married to each other.—(1) No officer shall be allotted a residence under these rules if the wife or the husband, as the case may be, of the officer has already been allotted a residence, unless such residence is surrendered:

Provided that this rule shall not apply where the husband and wife are residing separately in pursuance of an order of judicial separation made by any court.

(2) Where two officers in occupation of separate residence allotted under these rules marry each other, they shall within one month of the marriage surrender one of the residences.

(3) If a residence is not surrendered as required by sub-rule (h) the allotment of the residence of the lower type shall be deemed to have been cancelled on the expiry of such period and if the residences are of the same type the allotment of such one of them as the Director of Estate may decide shall be deemed to have been cancelled on the expiry of such period.

(4) Where both husband and wife are employed under the Central Government, the title of each of them to allotment of a residence under these rules shall be considered independently.

(5) Notwithstanding anything contained in sub-rules (1) to (4):

- (a) if a wife or husband, as the case may be, who is an allottee of a residence under these rules, is subsequently allotted a residential accommodation at the same station, from a pool to which these rules do not apply, she or he, as the case may be, shall surrender any one of the residence within one month of such allotment.

Provided that this clause shall not apply where the husband and wife are residing separately in pursuance of an order of judicial separation made by any Court.

- (b) where two officers, in occupation of separate residences at the same station, one, allotted under these rules and another from a pool to which these rules do not apply, marry each other, any one of them shall surrender any one of the residences within one month of such marriage.

- (c) if a residence is not surrendered as required under clause (a) or clause (b) the allotment of the residence in the general pool shall be deemed to have been cancelled on the expiry of such period.

5. Classification of Residences.—Save as otherwise provided by these rules, an officer will be eligible for allotment of a residence of the type shown in the table below :

Type of residence available at the Institute	Category of officer or his monthly emoluments as on such date as may be specified by the Central Government for the purpose of the allotment year concerned.
Type--A.	Less than Rs. 950/-
Type--B	Less than Rs. 1500/- but not less than Rs. 950/-
Type--C	Less than Rs. 2800/-but not less than Rs. 1500/-
Type--D	Less than Rs. 3600/--but not less than Rs. 2800/-
Type--E	Less than Rs. 3800/--and above Rs.3600/
Type--E1	Head of the Department.

6. Application for allotment

(i) Application for all types of residence shall be made to Head of the Department through proper channel in such form and manner and by such date, as may be specified by the Head of the Department as and when applications are invited. Save as otherwise provided in these rules allotment shall be made according to waiting list based on the dates of priority.

(ii) An officer joining duty on first appointment or transfer/deputation to Institute shall submit his application in the prescribed form, if any, to the Head of the Department within a month of joining his/her duty.

7. Allotment of residence and offers

(1) Save as otherwise provided in these rules a residence, falling vacant will be allotted by the competent authority preferably to an applicant desiring a change of quarters in that type under the provisions of these rules and if not required for that purpose, to an applicant without accommodation in that type of residence subject to the following conditions:—

- The competent authority shall not allot a residence of a type higher than that to what the applicant is eligible under rule 5.
- The competent authority shall not compel any applicant to accept a residence of lower type than that to what he is eligible under rule 5.
- The competent authority on request from an applicant for allotment of a lower category residence, might allot to him a residence next below the type for which the applicant is eligible under rule 5 on the basis of his priority date for the same.

(2) The competent authority may cancel the existing allotment of an officer and allot to him an alternative residence of the same type or in emergent circumstances an alternative residence of the type next below the type of residence in occupation of the officer if the residence in occupation of the officer is required to be vacated.

(3) A vacant residence may in addition to allotment to an officer under sub-rule (2) above, be offered simultaneously to other eligible officers in order of their priority dates.

8. Non-acceptable of allotment of offer or failure to occupy the allotted residence after acceptance.

(1) If an officer fails to accept the allotment of a residence within five days or fails to take possession of that residence after acceptance within eight days from the date of receipt of the letter of allotment he shall not be eligible for another allotment for a period of one year from the date of allotment letter.

(2) If an officer occupying a lower type of residence is allotted or offered a residence of the type for which he is eligible under rule 5, he may, on refusal of the said allot-

ment by permitted to continue in the previously allotted residence on the following conditions namely :

- (a) that such an officer shall not be eligible for another allotment or for which he has applied under rule 7-1(iii) for remaining period of the allotment year in which he has declined the allotment offer;
- (b) while retaining the existing residence he shall be charged the same licence fee which he would have to pay under FR 45-A. in respect of the residence so allotted or offered or the licence fee payable in respect of the residence already in the occupation which ever is higher.

9. Period for which allotment subsists and the concessional period for further retention :

(1) An allotment shall be effective from the date on which it is accepted by the officer and shall continue in force until—

- (a) the expiry of concessional period permissible under sub clause (2) after the officer ceases to be on duty;
- (b) it is cancelled by the competent authority or is deemed to have been cancelled under any provisions in these rules;
- (c) it is surrendered by the officer;
- (d) the officer ceases to occupy the residence.

(2) A residence allotted to an officer may, subject to sub-rule (3) be retained on the happening of any of the events specified in the corresponding entry in column 2 thereof, provided that the residence is required for the bona-fide use of the officer or members of his family :—

TABLE

Events	Permissible period for retention of the residence
1	2
(i) Resignation, dismissal or removal from service, termination of service or unauthorised absence without permission.	1 month
(ii) Retirement or terminal leave.	4 months
(iii) Death of the allottee	6 months
(iv) Transfer from the Institute to any office in or outside the place where the residence has been allotted.	2 months
(v) Transfer to an ineligible officer in the place where the residence has been allotted.	2 months
(vi) On proceeding on foreign service in India	2 months
(vii) Temporary transfer in India or transfer to a place outside India.	4 months
(viii) Leave (other than leave preparatory to retirement, refused leave, medical leave maternity leave or study leave).	For the period of leave but not exceeding 4 months.

1

2

(ix) Maternity leave

For the period of maternity leave plus leave granted in continuation subject to a maximum of five months.

(x) Leave preparatory to retirement or refused leave granted under F. R. 86 or Earned leave granted to a Government servant who retired under F.R. 56 (i)

For the full period of leave on full average pay subject to a maximum of 180 days in the case of leave preparatory to retirement and four months in other cases, inclusive of the period permissible in the case of retirement.

(xi) Study leave or deputation outside India.

For the period of leave but not exceeding six months.

(xii) Study leave in India

For the period of leave but not exceeding six months.

(xiii) Leave on medical grounds

For the full period of leave.

(xiv) On proceeding on training

For the full period of training.

Explanation-I.—Where an officer on transfer or foreign service in India is sanctioned leave and avails of it before joining duty at the new office, he may be permitted to retain the residence for the period mentioned against items (iv), (v), (vi) and (vii) or for the period of leave, whichever is more.

Explanation-II.—Where an order of transfer or foreign service in India is issued to an officer, while he is already on leave, the period permissible under Explanation I, shall count from the date of issue of such order.

(3) Where a residence is retained under sub-rule (2) the allotment shall be deemed to be cancelled on the expiry of the admissible concessional periods unless immediately on the expiry thereof the officer resumes duty.

(4) Where an officer is on medical leave without pay and allowances, he may retain his residence by virtue of the concession under item (xiii) of the table below sub-rule (2) provided he remits such licence fee, for more than two months, the allotment shall stand cancelled.

(5) An officer who has retained the residence by virtue of the concession under item (i) or item (ii) of the table below sub-rule (2) shall on re-employment within the period specified in the said table, be entitled to retain that residence and he shall be eligible for any further allotment of residence under these rules.

Provided that if the emoluments of the officer on such re-employment do not entitle him to the type of residence occupied by him, he shall be allotted a lower type of residence.

(6) Notwithstanding anything contained in sub-rule (2) or sub-rule (3) or sub-rule (5), when an officer is dismissed or removed from service or when his services have been terminated, the competent authority may, if satisfied that it is necessary or expedient in the public interest so to do, cancel the allotment of residence made to such an officer either forthwith or with effect from such date prior to the expiry of the period of one month referred to in item (i) of the table below sub-rule (2) as he may specify.

10. Provisions relating to licence fee.—(1) Where an allotment of accommodation or alternative accommodation has been accepted, the liability for licence fee shall commence from the date of occupation or the eighth day from the date of allotment, whichever is earlier.

An officer who after acceptance fails to take possession of that accommodation within eight days from the date of receipt of the allotment letter, shall be charged licence fee from such date upto a period of twelve days.

Provided that nothing herein shall apply where the Central Public Work Department certified that the accommodation is not fit for occupation, and as a result thereof the officer does not occupy the accommodation within the period aforesaid.

(2) Where an officer who is in occupation of a residence is allotted another residence, former residence shall be deemed to be cancelled from the date of occupation of the new residence. He may, however, retain the former residence without payment of licence fee for that day and the subsequent day for shifting.

Provided that if the former residence is not vacated by the subsequent date as aforesaid, the officer will be liable to pay damages for use and occupation of the residence, services, furniture and garden charges, equal to the market licence fee as may be determined by the Central Government in the Union Ministry of Agriculture from time to time with effect from the date he takes possession of the later residence.

11. Personal liability of the officer for payment of licence fee till the residence is vacated and furnishing of surety by temporary officer:—(1) The officer to whom a residence has been allotted shall be personally liable for the licence fee thereof and for any damage beyond fair wear and tear cause thereto or to the furniture, fixtures or fittings or services provided therein by Government during the period for which the residence has been and remains allotted to him or where the allotment has been cancelled under any of the provisions in these rules until the residence alongwith the out-houses appurtenant thereto have been vacated and full vacant possession thereof has been restored to Government.

(2) Where the officer to whom residence has been allotted is neither a permanent nor quasi-permanent Govt. servant, he shall execute a security bond in the form prescribed in this behalf by the Central Government with a surety, who shall be a permanent Government servant serving under the Central Government, for due payment of licence fee and other charges due from him in respect of such residence and any other residence provided in lieu.

(3) If the surety ceases to be in Government service or becomes insolvent or ceases to be available for any other reasons, the officer shall furnish a bond executed by another surety within thirty days from the date of his acquiring knowledge of such event or fact and if he fails to do so, the allotment of the residence to him, shall unless otherwise decided by the competent authority be deemed to have been cancelled from the date of that event.

12. Surrender of an allotment and period of notice.—(1) An officer may at any time surrender an allotment by giving intimation so as to reach the competent authority at least ten days before the date of vacation of the residence. The allotment of residence shall be deemed to be cancelled with effect from the eleventh day after the day on which the letter is received by the Director of Estates or the date specified in the letter whichever is later. If he fails to give due notice he shall be responsible for the payment of licence fee for ten days or the number of days by which the notice given by him falls short of ten days, provided that the Director of Estates may accept a notice for a short period.

(2) An officer who surrenders the residence under sub-rule (1) shall not be considered again for allotment of Government accommodation at the same station for a period of one year from the date of such surrender.

13. Change of residence.—(1) An officer to whom a residence has been allotted under these rules may apply for a change to another residence of the same type or a residence of the type to which he is eligible under rule 5, whichever is lower. Not more than one change shall be allowed in respect of one type of residence allotted to the officer.

(2) All applications for change made in the form prescribed by the director of Estates and received upto the 19th day of a calendar month shall be included in the waiting list in the succeeding month. For purposes of this rule the officers whose names are included in the waiting list in an earlier month shall be senior enblock to those whose names are included in the list in subsequent months. The inter-seniority of the officers included in the list in any particular month shall be determined in the order of their priority dates.

(3) Changes shall be offered in order of seniority determined in accordance with sub-rule (2) and having regard to the officers preferences as far as possible.

Provided that no change of residence shall be allowed during a period of six months immediately preceding the date of superannuation.

(4) If an officer fails to accept a change of residence offered to him within five days of the receipt of such offer or allotment, he shall not be considered again for a change of allotment of that type.

(5) An officer who after accepting a change of residence fails to take possession of the same, shall be charged licence fee for such residence in accordance with the provisions of sub-rule (1) of rule 10 in addition to the normal licence fee under FR 45-A, for the residence already in his possession, the allotment of which shall continue to exist.

14. Change of residence in the event of death of a member of the family.—Notwithstanding anything contained in Rule 13, an officer may be allowed the change of residence on the death of any member of his family, if he applies for a change within three months of such occurrence provided that the change will be given in the same type of residence and in the same floor as the residence already allotted to the officer.

15. Mutual exchange of residences.—Officers to whom residence of the same type have been allotted under these rules may apply for permission to mutually exchange their residences. Permission for mutual exchange may be granted if both the officers are reasonably expected to be on duty in the same Institute, and to reside in their mutually exchanged residences for atleast six months from the date of approval of such exchange.

16. Transfer to non family station.—If an officer is transferred to a station where he is not permitted or advised by Government to take his family with him and the residence allotted to him under these rules is required by the family for the 'bona-fide' educational needs of his children, he may be allowed on request to retain the residence on payment of licence fee under FR 45-A till the end of current academic session of his children in the Institute.

17. Maintenance of Residence.—The officer to whom a residence has been allotted shall maintain the residence and premises in a clean condition to the satisfaction of the competent authority. Such officer shall not grow any trees, shrubs or plants contrary to the instructions issued by the Central Government or Central Public Works Department nor cut or lop of any existing tree or shrubs in any garden courtyard or compound attached to the residence save with the prior permission in writing of the Central Public Works Department at the risk and cost of the officer concerned.

18. Subletting and sharing of residences.—(1) No officer shall share the residence allotted to him or any of the out-houses, garages and stables appurtenant thereto except with the employees of Central Government eligible for allotment of residence under these rules. The servants' quarters, out houses, garages and stables may be used only for the bona-fide purposes including residence of the servants of the allottee or for such other purposes as may be permitted by the Director of Estates.

(2) No officer shall sub-let the whole of his residence.

Provided that an officer proceeding on leave may accommodate in the residence, any other officer eligible to share accommodation, as a caretaker for the period specified in rule 9(2), but not exceeding six months.

(3) Any officer who shares or sublets his residence shall do so at his own risk and responsibility and shall remain personally responsible for any licence fee payable in respect of the residence and for any damage caused to the residence or its precincts or grounds or services provided therein by Government beyond fair wear and tear. No official shall allow to stay with them any representative of the firms visiting the Institute for testing works, training work or any other work relating to their firms with the Institute.

19. Rearing of animals/birds.—No officer to whom a residence is allotted under these rules shall keep/rear any kind of animal/bird in the residence allotted to him/her without prior written permission of the Director of Estate. No allottee shall keep of stock fodder in a manner which is susceptible for fire hazard. Those contravening the provisions of these rules shall be dealt with under the provisions of rule 20 relating to consequences of breach of rules and conditions.

20. Consequence of breach of rules and conditions.—

(1) If an officer to whom a residence has been allotted, unauthorisedly sublets the residence or charges licence fee from the sharer at a rate which Director of Estates considers excessive or erects any unauthorised structure in any part of the residence or uses the residence or any portion thereof for any purposes other than that for which it is meant or tampers with the electric or water connection or commit any other breach of the rules in this Division or of the terms and conditions of the allotment or uses the residence/permises or permits the residence or premises to be used for any purpose which the Director of Estates considers to be improper or conducts himself in a manner which is in his opinion is prejudicial to the maintenance of harmonious relations with his neighbours or has knowingly furnished incorrect information in any application or written statement with a view to securing allotment, the Director of Estates may without prejudice to any other disciplinary action that may be taken against him, cancel the allotment of the residence.

Explanation: In this sub rule, the expression 'Officer' include unless the context otherwise requires, a member of his family and any person claiming through the officer.

(2) If an officer sublets a residence allotted to him or any portion thereof or any of the out houses, garages or stables appurtenant thereto in contravention of these rules, he may without prejudice to any other action that may be taken against him be charged enhanced licence fee not exceeding four times the standard licence fee under rule FR 45-A. The quantum of licence fee to be recovered and the period for which the same may be recovered in each case will be decided by the Director of Estates on merits. In addition, the officer may be debarred from sharing the residence for a specified period in future as may be decided by the Director of Estates.

(3) Where action to cancel the allotment is taken on account of unauthorised subletting of the premises of the allottee, a period of sixty days shall be allowed to the allottee and any other person residing with effect from the date of vacation of the premises or expiry of the period of sixty days from the date of the orders for the cancellation of the allotment, whichever is earlier.

(4) Where the allotment of residence is cancelled for conduct prejudicial to the harmonious relation with neighbours, the officer, at the discretion of Director of Estates, may be allotted another residence of the same class at any other place.

(5) The Director of Estates shall be competent to take all or any of the actions under sub-rule (1) to (4) of this rule and also to declare the officer who commits a breach of the rules and instructions issued to him, to be ineligible for allotment of residential accommodation for a period not exceeding three years.

(6) Where any penalty under this rule is imposed by the Director of Estates the aggrieved person may within sixty days of the receipt of the order by him, imposing the penalty, file a representation to the Joint Secretary Incharge of the Machinery Division in the Union Ministry of Agriculture.

(7) Original order imposing the penalty shall stand unless it is modified or rescinded as a result of the representation.

21. Overstayal in residences after cancellation of Allotment.—Where after an allotment has been cancelled or is deemed to be cancelled under any provision contained in these rules, the residence remains or has remained in occupation of the officer to whom it was allotted or of any person claiming through him, such officer shall be liable to pay damages for use and occupation of the residence, services, furniture and garden charges, equal to the market licence fee as may be determined by the Central Government four time to time or twice the licence fee he was paying whichever is higher.

Provided that an officer, in a special case be allowed by the Director of Estates to retain a residence on payment of twice the standard licence fee under FR 45-A or twice the pooled standard licence fee under FR 45-A, whichever is higher for a period not exceeding six months beyond the period permitted under rule 9(2).

Provided further that in the event of retirement or terminal leave, the period for further retention on payment of licence fee as indicated in the aforesaid proviso shall be not exceeding 4 months.

22. Continuance of allotment made prior to issue of rules.—Any valid allotment of a residence which is subsisting immediately before the commencement of these rules under the rules then in force shall be deemed to be an allotment duly made under these rules notwithstanding that the officer to whom it has been made is not entitled to a residence of that type under rule 5 and all the preceding provisions of these rules shall apply in relation to that allotment and that officer accordingly.

23. Interpretation of rules.—If any question arises as to the interpretation of the rules in this Division, it shall be decided by the Central Government in the Ministry under whose administrative jurisdiction the Institute is, at that point of time.

24. Relaxation of rules.—The Head of the Department of the Institute for reasons to be recorded in writing relax any or all of the provisions of the rules in the case of any officer or residence or class of officers or types of residences.

25. Delegation of powers.—The Central Government may delegate any or all the powers conferred upon it by the rules to any officer under its control, subject to such conditions as it may deem fit to impose.

[No. 11-24/83-My (Admn.)]

V. K. PUNNI, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य विभाग)

नई दिल्ली, 26 मई, 1989

का. प्रा. 1130—दंत चिकित्सक अधिनियम, 1948 (1948 का 16) की धारा 3 के खंड (घ) के अन्तर्गण में डा. के. जियंजीशी प्रधानाचार्य, सरकारी दंत चिकित्सा महाविद्यालय और प्रस्पताल, हैदराबाद, को 26 दिसम्बर, 1988 से उम्मानिया विश्वविद्यालय, हैदराबाद की मिनेट द्वारा डा. बी. जैपात्री के स्थान पर भारतीय दंत चिकित्सा परिषद् के सदस्य के रूप में निर्वाचित किया गया है;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (1) के साथ पठित धारा 3 के खंड (घ) के अन्तर्गण में स्वास्थ्य और परिवार कल्याण मंत्रालय (स्वास्थ्य विभाग) की अधिसूचना संख्या का. प्रा. 430, तारीख 24 जनवरी, 1984 का निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में "धारा 3 के खण्ड (घ) के अधीन नियमित" शीर्षक के नीचे स्तम्भ 2 में 5 में की प्रविष्टियाँ रखी जाएंगी, अर्थात् :—

1	2	3	4	5
"डा. के. चिरंजीवी,	निर्वाचित	उस्मानिया	20-12-1988"	
प्रधानाचार्य,		विश्वविद्यालय		
सरकारी दन्त चिकित्सा				
महाविद्यालय और				
अस्पताल,				
हैदराबाद।				

[संख्या बी. 12013/1/89—पी. एस. एस.]

MINISTRY OF HEALTH AND FAMILY WELFARE

(Deptt. of Health)

New Delhi, the 26th May, 1989

S.O. 1430.—Whereas in pursuance of clause (d) of section 3 of the Dentists Act, 1948 (16 of 1948), Dr. K. Chiranjeevi, Principal, Government Dental College and Hospital, Hyderabad, has been elected to be a member of the Dental Council of India by the Senate of the Osmania University, Hyderabad, with effect from the 26th December, 1988, Vice Dr. B. Seshadri;

Now, therefore, in pursuance of clause (d) of section 3 read with sub-section (1) of section 6 of the said Act, the Central Government hereby makes the following amendment in the notification of the Ministry of Health and Family Welfare, (Department of Health), No. S.O. 430, dated the 24th January, 1984, namely :—

In the said notification, under the heading "Elected under clause (d) of section 3", against serial number 4, for the entries in columns 2 to 5, the following entries shall be substituted, namely :—

2	3	4	5
"Dr. K. Chiranjeevi, Elected	Osmania	26-12-1988."	
Principal,	University		
Government Dental			
College and Hospital,			
Hyderabad.			

[No. V. 12013/1/89-PMS]

नई दिल्ली, 29 मई, 1989

का. घा. 1431.—भारतीय परिवर्तन परिषद ने 22 अप्रैल, 1988 को हुई बैठक में पश्चिम एक संकल्प द्वारा और भारतीय नर्स परिषद अधिनियम, 1947 (1947 का 48) की धारा 10 की उपधारा (2) के अनुसरण में यह घोषित किया कि उसमें विनिर्दिष्ट करने के लिए उक्त अधिनियम के प्रयोजनों के लिए मान्यता प्राप्त अर्हता होगी।

और उक्त अधिनियम की धारा 15 को उपधारा (1) की अपेक्षा-नुसार उक्त संकल्प को भारतीय परिवर्तन परिषद की अधिसूचना सं. 11-1/88-आईएससी, तारीख 27 अक्टूबर, 1988 के साथ संशोधन में प्रकाशित किया जा चुका है।

अतः, अतः, केन्द्रीय सरकार उक्त अधिनियम की धारा 15 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम को अनु-सूची में निम्नलिखित और संशोधन करने के त्रिमते इसे उक्त घोषणा के अनुरूप बनाया जा सके, अर्थात् :—

उक्त अधिनियम की अनुसूची में, भाग 1 में, क्रम संख्यांक 59 और उसके संबंधित प्रविष्टि के पश्चात् साधारण प्रविष्टि जोड़ी जाएगी, अर्थात् :—

1542 GI/89—3

"60. देवी अहिल्या विश्वविद्यालय, इंदौर (जब 26 जनवरी, 1989 को या उनके पश्चात् दी जाए)।"

[संख्या बी. 14015/1/89—पी. एस. एस.]

जा. जो. के. नगर, अवर सचिव

New Delhi, the 29th May, 1989

S.O. 1431.—Whereas the Indian Nursing Council has, by a resolution passed at a meeting held on the 22nd April, 1988 and in pursuance of sub-section (2) of section 10 of the Indian Nursing Council Act, 1947 (48 of 1947), declared that the qualification specified therein shall be a recognised qualification for the purposes of the said Act;

And, whereas, the said resolution has been published in the Official Gazette with the notification of the Indian Nursing Council No. 11-1/88-INC, dated the 27th October, 1988, as required by sub-section (1) of section 15 of the said Act;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 15 of the said Act, the Central Government hereby makes the following further amendments in the Schedule to the said Act so as to bring it into accord with the said declaration, namely :—

In the Schedule to the said Act, in Part I, —under the Heading "A General Nursing" after serial number 59 and the entry relating thereto, the following serial number and entry shall be added, namely :—

"60. Devi Ahilya Vishwavidyalaya, Indore

(where granted on or after the 26th January, 1983)."

[No. V. 14015/1/89-PMS]

G. G. K. NAIR, Under Secy.

परमाणु ऊर्जा विभाग

बम्बई, 18 जनवरी, 1989

का. घा. 1432.—केन्द्रीय सरकार, सरकारी स्थान (संप्राप्त अधिसूचनाओं की वेबसाई) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नीचे की सारणी के स्तम्भ (1) में वर्णित अधिकारियों को, जो राजपत्रित अधिकारी, इंडियन रेयर अर्थ्स लिमिटेड के जो एक नियमित प्राधिकरण है, अधिकारी हैं और भारत सरकार के राजपत्रित अधिकारियों की समन्वय रैंक के हैं, उक्त अधिनियम के प्रयोजनों के लिए संशोधन अधिकारी नियुक्त करती है और उक्त अधिकारी उक्त अधिनियम द्वारा या उसके अधीन संपदा अधिकारियों को प्रदत्त शक्तियों का प्रयोग और उन पर अधिरोपित कर्तव्यों का पालन उक्त सारणी के स्तम्भ (2) में वर्णित प्रयोगों के सरकारी स्थानों की बाबत अपनी अधिकारिता के भीतर करेंगे।

1	2	3
1. मुख्य प्रशासनिक तथा लेखा अधिकारी, रेयर मैटेरियल्स प्लांट, इंडियन रेयर अर्थ्स लिमिटेड, रत्नाहले, मैसूर कर्नाटक।	कर्नाटक में मैसूर और बंगलूर में इंडियन रेयर अर्थ्स लिमिटेड को या उनके प्रशासनिक नियंत्रण के अधीन या उनकी ओर से या उनके द्वारा पट्टे पर लिए गए सभी परिसर।	
2. महाप्रबन्धक (कार्मिक तथा प्रशासन), इंडियन रेयर अर्थ्स लिमिटेड, गेरवान 111, एम के रोड, बम्बई—400020	बम्बई में इंडियन रेयर अर्थ्स लिमिटेड के अपने अथवा उनके प्रशासनिक नियंत्रण के अधीन और उनके द्वारा पट्टे पर लिए गए सभी परिसर, अर्थात् : (क) ट्राम्पे में संयंत्र स्थल,	

1	2	3
		(ख) बंबई में आवासीय फ्लैट्स और
		(ग) बम्बई में पट्टे पर लिए गए परिसर।
2. महाप्रबंधक (आयकाम), उड़ीसा सैंड कॉम्प्लेक्स, (आयकाम), इंडियन रेयर अर्थ्स लि०, छतरपुर, जिला गंजम, उड़ीसा	उड़ीसा राज्य में इंडियन रेयर अर्थ्स लि० की अथवा उनके प्रशासनिक नियंत्रण के अधीन या पट्टे पर लिए गए सभी परिसर, अर्थात्:—	(क) छतरपुर में संयंत्र (गंजम जिले में) (ख) मट्टीखाले में आवासीय कालोनी, और (ग) भुवनेश्वर में पट्टे पर लिए गए परिसर।

[सं. 3/10(25)/88-पी एम यू]

श्रीमती विजय मोहनराम, निदेशक
कृते भारत के राष्ट्रपति और उनकी ओर से

DEPARTMENT OF ATOMIC ENERGY

Bombay, the 16th January, 1989

S.O. 1432.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officers mentioned in column (1) of the Table below being Gazetted Officer/Officers of the Indian Rare Earth Limited a corporate authority, being officers equivalent to the rank of the Gazetted officers of the Government of India, to be the estate officer for the purposes of the said Act, and the said officers shall exercise the powers conferred and perform the duties imposed on estate officers by or under the said Act, within the local limits of their jurisdiction in respect of the categories of Public premises specified in column (2) of the said Table.

(1)	(2)
1. Chief Administrative and Accounts Officer, Rare Materials Plant, Indian Rare Earths Limited, Ratnahally, Mysore, Karnataka.	All premises belonging to or taken on lease by or on behalf of or under the administrative control of Indian Rare Earths Ltd., at Mysore and Bangalore in Karnataka.
2. General Manager (Personnel & Administration), Indian Rare Earths Ltd., Sherbanoo 111, M.K. Road, Bombay-400 020.	Premises belonging to or taken on lease or under the administrative control of Indian Rare Earths Ltd. at Bombay, namely :— (a) Plant site at Trombay, (b) residential flats in Bombay and (c) Premises taken on lease at Bombay.
3. General Manager (OSCOM) Orissa Sands Complex (OSCOM) Indian Rare Earths Ltd., Chatrapur, Ganjam District Orissa.	All premises belonging to or taken on lease or under the administrative control of the Indian Rare Earths Limited in the State of Orissa, namely:— (a) Plant site at Chatrapur (in the district of Ganjam)

1	2
	(b) residential colony at Matti-khallo, and (c) premises taken on lease in Bhubaneswar.

[No. 3/10(25)/88-PSU]

(Smt.) VIJAYA MOHANRAM, Director
for and on behalf of President of India

मानव संसाधन विकास मंत्रालय

(युवा कार्यक्रम और खेल विभाग)

नई दिल्ली, 9 मई, 1989

का. प्रा. 1433.—समय-समय पर संगोष्ठित इस विभाग के दिनांक 10 फरवरी, 1988 की समसंबंधक अधिसूचना में पुनः निम्नानुसार संगोष्ठित किया जाता है :—

सदस्यों की सूची में कम संख्या 20 पर संयुक्त सचिव (खेल), युवा कार्यक्रम और खेल विभाग (सदस्य-सचिव और कोषाध्यक्ष), के समक्ष "श्री डी. के. मण्डलन" के स्थान पर "श्रीमती उषा चतुर्थ" का नाम प्रतिस्थापित किया जाता है।

[सं. एक 13-35/87-खेल-IV]

एस. जी. मण्डल, निदेशक (खेल)

MINISTRY OF HUMAN RESOURCES DEVELOPMENT

(Department of Youth Affairs and Sports)

New Delhi, the 9th May, 1989

S.O. 1433.—The Department's Notification even number dated the 10th February, 1988 as modified from time to time is hereby further partially modified as follows :—

In the list of Members at Serial No. 20 against Joint Secretary (Sports), Department of Youth Affairs & Sports (Member-Secretary & Treasurer, the name "Smt. Usha Chatrath" is substituted in place of "Shri D. K. Manavalan".

[No. F. 13/35/87-SP. IV]

S. G. MANKAD, Director (Sports)

(संस्कृति विभाग)

नई दिल्ली, 26 मई, 1989

का. प्रा. 1434.—चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 9 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (11) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा राजपत्रित अधिसूचना संख्या 801/50/87—एक सी दिनांक 5 मई, 1989 का आंशिक संगोष्ठन करते हुए केन्द्रीय सरकार भारतीय पुरातत्व सर्वेक्षण, बंगलौर के अधीक्षण पुरातत्वविद, श्री के० पी० पुमाचा को केन्द्रीय फिल्म प्रमाणन बोर्ड, बंगलौर में 13 मई से 4 जून तक क्षेत्रीय अधिकारी के रूप में भी कार्य करने के लिए नियुक्त करती है।

[सं. 801/50/87—एक सी]

भास्कर चटर्जी, उप सचिव

(Department of Culture)

New Delhi, the 26th May, 1989

S.O. 1434.—In exercise of the powers conferred by Sub-section (ii) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with Rule 9 of the Cinematograph (Certification) Rules, 1983, and in partial modification of the Gazette Notification No. 801/50/87-FC dated the 5th day 1989, the Central Government is pleased to appoint Shri K. P. Poonacha, Superintending Archaeologist, Archaeological Survey of India, Bangalore, to also function as Re-

gional Officer, Central Board of Film Certification, Bangalore, with effect from May 13 to June 4.

[No. 801/50/87-FC]
BHASKAR CHATTERJEE, Dy. Secy.

जलमूल परिवहन मंत्रालय

(नौवहन पक्ष)

नई दिल्ली, 29 मई, 1989

का. आ. 1435- वाणिज्य पोत परिवहन अधिनियम, 1958 (1958 का 44) का धारा 361 द्वारा प्रदान शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा उक्त अधिनियम, के भाग XII के तहत चौक जूडिशियल मजिस्ट्रेट, इर्नाकुलम को "मत्तचैरी" नामक ड्रेजर (कोचीन पोर्ट ट्रस्ट, कोचीन का एक भारतीय जहाज) के नष्ट हो जाने की 26-5-1988 या उसके आसपास विधिवत जांच करने के लिए शक्ति प्रदान करती है।

[काइल सं एस आर-12011/5/88-एम ए]

राम सनेही, भ्रवर सचिव

MINISTRY OF SURFACE TRANSPORT (Shipping Wing)

New Delhi, the 29th May, 1989

S.O. 1435.—In exercise of the powers conferred by Section 361 of the Merchant Shipping Act, 1958 (44 of 1958), the Central Government hereby empowers the Chief Judicial Magistrate of Ernakulam to make a formal investigation under Part-XII of the said Act into the casualty to the Dredger "Mattancherry" (an Indian ship belonging to Cochin Port Trust, Cochin) on or about 26-5-1988.

[File No. SR-12011/5/88-MA]
RAM SANEHI, Under Secy.

दिल्ली विकास प्राधिकरण

(मुख्य योजना अनुभाग)

नई दिल्ली, 24 जून, 1989

सार्वजनिक सूचना

का. आ. 1436—केन्द्रीय सरकार का दिल्ली की मुख्य योजना/क्षेत्रीय विकास योजना में निम्नलिखित संशोधन करने का प्रस्ताव है, जिसे एतद्वारा जनता की जानकारी के लिए प्रकाशित किया जाता है। प्रस्तावित संशोधन के संबंध में यदि किसी व्यक्ति को कोई आपत्ति हो अथवा सुझाव देना हो तो वह अपनी आपत्ति अथवा सुझाव लिखित रूप में इस सूचना के जारी होने की तिथि से तीस दिन की अवधि के अन्तर सचिव, दिल्ली विकास प्राधिकरण, विकास सदन आई. एम. ए. "(बी)" ब्लॉक, नई दिल्ली को भेज दे। आपत्ति करने/सुझाव देने वाले व्यक्ति को अपना नाम और पता भी अवश्य देना चाहिए।

संशोधन:

(i) जोन सी-II में आने वाले और उत्तर की ओर क्षेत्रीय पार्क से, दक्षिण की ओर विद्यमान हिन्दू राव अस्पताल से, पूर्व की ओर 60 सार्वजनिक वाली सड़क से और पश्चिम की ओर क्षेत्रीय पार्क से घिरे हुए लगभग 1.49 एकड़ क्षेत्र का भूमि उपयोग "मनोरंजनात्मक" (रिज क्षेत्र) से सार्वजनिक एवं अर्ध-सार्वजनिक सुविधाओं (अस्पताल) में बदला जाना प्रस्तावित है बशर्ते कि इस क्षेत्र में कोई निर्माण कार्य न किया जाए और भूमि को उसके प्राकृतिक रूप में हरा-भरा रखा जाए।

(ii) जोन सी-II में आने वाले और उत्तर की ओर विद्यमान हिन्दू राव अस्पताल से, दक्षिण की ओर क्षेत्रीय पार्क, पूर्व की ओर 60' सार्व

धिकार वाली सड़क से और पश्चिम की ओर क्षेत्रीय पार्क से घिरे हुए लगभग 1.49 एकड़ क्षेत्र का भूमि उपयोग "मनोरंजनात्मक" (रिज क्षेत्र) से "सार्वजनिक एवं अर्ध-सार्वजनिक सुविधाओं (अस्पताल)" में बदला जाना प्रस्तावित है बशर्ते कि इस क्षेत्र में कोई निर्माण कार्य न किया जाए और भूमि को उसके प्राकृतिक रूप में हरा-भरा रखा जाए।

2. प्रस्तावित संशोधन को दर्शाने वाला नक्शा निरीक्षण के लिए उपयुक्त अवधि के अन्दर सभी कार्य विभागों में उप निदेशक, मुख्य योजना अनुभाग, विकास मीनार, छोटी मंजिल, आई. पी. एस्टेट, नई दिल्ली के पास उपलब्ध होगा।

[सं. एफ. 20 (17) 87 - एमपी]

जनक जुनेजा, सचिव

DELHI DEVELOPMENT AUTHORITY

(Master Plan Section)

New Delhi, the 24th June, 1989

PUBLIC NOTICE

S.O. 1436.—The following modifications which the Central Government proposes to make to the Master Plan/Zonal Development Plan for Delhi, is hereby published for public information. Any person having any objection or suggestion with respect to the proposed modifications may send the objection or suggestion in writing to the Secretary, Delhi Development Authority, Vikas Sadar INA 'B' Block, New Delhi within a period of thirty days from the date of issue of this notice. The person making the objection or suggestion should also give his name and address.

MODIFICATIONS

(i) "The land use of an area, measuring about 4.84 acres falling in zone C-11 and bounded by Regional Park towards North, existing Hindu Rao Hospital towards South, 60'R|W road towards East and Regional Park towards West is proposed to be changed from "Recreational" (Ridge Area) to "Public & Semi-Public facilities (Hospital)" subject to that no construction should come up in this area and the land will be kept green in its natural environ."

(ii) "The land use of an area meaning about 1.49 acres falling in Zone C-11 and bounded by existing Hindu Rao Hospital towards North, Regional Park towards South, 60 R|W road towards East and Regional Park towards west, is proposed to be changed from "Recreational" (Ridge Area) to "Public and Semi-Public facilities (Hospital)" subject to that no construction should come up in this area and the land will be kept green in its natural environ."

2. The plan indicating the proposed modifications will be available for inspection at the office of the Dy. Director, Master Plan Section, Vikas Minar,

6th floor, IP Estate, New Delhi on all working days within the period referred to above.

VIKAS SADAN
'B' BLOCK, I.N.A
NEW DELHI.
Dated the 24-6-89.

[F. 20(17)]87-MP]

JANAK JUNEJA, Secy.

राम मंत्रालय

नई दिल्ली, 26 मई, 1989

का. आ. 1437—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार, नेशनल इश्योरेंस कॉम्पनी लिमिटेड, कानपुर के प्रबन्ध तंत्र के संबद्ध निजीजों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट का प्रकाशित करता है।

MINISTRY OF LABOUR

New Delhi, the 26th May, 1989

S.O. 1437.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Cum Labour Court Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of National Insurance Co. Ltd. and their workmen, which was received by the Central Government on the

ANNEXURE

BEFORE SRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 30 of 1986

Reference No. L-17012/22/85-D.IV (A) dated 4-2-1986

In the matter of dispute

BETWEEN

The Secretary, General Insurance Employees Association, 17/13, The Mall, Kanpur.

AND

The Sr. Divisional Manager, National Insurance Company Limited, 58/42, Kasturba Gandhi Marg, Kanpur.

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-17012/22/85-D.IV (A) dated 4-2-86, has referred the following dispute for adjudication to this Tribunal for adjudication :—

"Whether the imposition of punishment of Censure on Shri Tulsi Ram by the management of National Insurance Company without communication imputation of misconduct and without conducting any enquiry in violation of the General Insurance (Conduct, Discipline and Appeal) Rules, 1975 and consequent withdrawal of functional allowance of telex operator from him is justified? If not, to what relief is the workman concerned entitled?"

2. In the instant case 31-5-88 was fixed for cross examination of the management witness, but parties to dispute filed a settlement which was duly verified before me. Further both the sides requested that the reference be answered in the light of the settlement.

The terms of settlement are as under :—

(1) That the applicant, Tulsi Ram, has no grievance against the management and the difference and disputes whatever were there have been mutually and amicably settled and now exists no difference of dispute whatsoever.

(2) That the applicant, Tulsi Ram, has already get two promotions in quite succession from the management. Now he is working an Asstt. Administrative Officer in Meerut Divisional Office, which is deemed to be an indifferent part of management.

3. As such in the light of the above referred terms of settlement, reference is answered accordingly.

ARJAN DEV, Presiding Officer
[No. L-17012/22/85-D.IV (A)/D.I (B)]

का. आ. 1438 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन डेवलपमेंट बैंक आफ इंडिया के प्रबंधन के संबद्ध निजीजों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचाट का प्रकाशित करता है।

S.O. 1438.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Industrial Development Banks of India and their workmen.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 118 of 1987

In the matter of dispute :

BETWEEN

Reference No. L-12012/616/86-D.II(A) dated 24-4-87.
The Chief Secretary, Reserve Bank 'D' Class Employees Union, Kanpur

AND

The Dy. General Manager, Industrial Development Bank of India The Mill, Kanpur. Opp. Party.

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-12012/616/86-D.II(A) dated 24-8-87 has referred the following dispute for adjudication to this Tribunal :—

"Whether the action of Industrial Development Bank of India Kanpur in Denying Full Time Employment to Shri Hans Ram Part time Sweeper is fair and justified? If not, to what relief the concerned employee is entitled to?"

2. Today is date fixed for cross examination of the management witness. From the side of the management appears Shri Sunderaraman, Manager, I.D.B.I. who has filed his affidavit on behalf of the management and for his cross examination and although it is 2.15 p.m., neither the workman nor his auth. representative has turned up

3. Accordingly a no claim award is given.

ARJAN DEV, Presiding Officer
[No. L-12012/616/86-D.II (A)]
PADMA VENKATACHALAM, Dy. Secy.

नई दिल्ली, 2 जून, 1989

का. आ. 1439 औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मो पी डेवलप बैंक

के प्रवर्तन से सम्बद्ध निर्यातकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-89 को प्राप्त हुआ था।

New Delhi, the 2nd June, 1989

S.O. 1439.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of C.P.W.D. and their workmen, which was received by the Central Government on the 24-5-1989.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 24 of 1989

In the matter of dispute :

BETWEEN

Shri Dharmanand Thapliyal C/o Shri Sachchidanand
Thapliyal, L.B.S.N.A.A. Charly Villay, Masoori
Petitioner

AND

The Executive Engineer Central Division-II, C.P.W.D.
Department, 20, Subhash Road, Dehradun-248001
Opp. Party

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-42012/42/87-D.II (B) dated 17-1-1989 has referred the following dispute for adjudication to this Tribunal :—

“Whether the action of the management of Central P.W.D. Civil Division-II, Dehradun is terminating the services of Shri Dharmanand Thapliyal Beldar w.e.f. 30-4-1982 is justified? If not, to what relief the workman is entitled to?”

2. In the present case two dates i.e. 23-2-89, 9-3-89 had been given to the workman for filing statement of claim from the side of management Shri R. L. Gupta, V. K. Gupta and A. K. Gupta have filed their Authority in the case. On 21-4-89 none appeared from the side of the workman management representatives were present. As such it appears that the workman is not interested to contest the case.

3. In the circumstances discussed above a no claim award is given against the workman.

ARJAN DEV, Presiding Officer
[No. L-42012/42/87-D.II (B)]

का. अ. 1440.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार सेंट्रल गवर्नमेंट के प्रवर्तन से सम्बद्ध निर्यातकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-5-89 को प्राप्त हुआ था।

S.O. 1440.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Railway, Jhansi and their workmen which was received by the Central Government on the 24-5-1989.

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
KANPUR

Industrial Dispute No. 143 of 1980

In the matter of dispute :

BETWEEN

Shri Laxmi Chander Sharma C/o Shri Suresh Singh
Sec. Intuc (UP) 2/236 Namnair Agra.

AND

The Divisional Railway Manager Central Railway
Jhansi U.P.

AWARD

1. The Central Government Ministry of Labour, vide its Notification No. L-41012/20/86-D.II (B), dated 15-12-86, has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of Central Railway Jhansi in not allowing Shri Lakshmi Chand Sharma, trains clerk to resume duty after 5-5-79 and then removing him from service w.e.f. 26-6-84 is legal and justified? If not to what relief the workman concerned is entitled and from what date?

2. The workman's case in brief is that in the Central Railway, at Jhansi he held the post of Marshalling/Statistics/MMIT Trains Clerk w.e.f. 5-5-79, he was denied duty without any notice, chargesheet, inquiry a.c., although he had been regularly going to his office for doing duty. He therefore filed LCA No. 431 of 1981 in CGIT cum Labour Court New Delhi. In the said case in the written statement it was pleaded by the management that the workman had been on unauthorised absence w.e.f. 5-5-79. In his rejoinder, he alleged that had it been so a department inquiry with regard to his alleged misconduct would have been conducted against him. In their further reply, the management pleaded that an exparte departmental inquiry was held against him. Therefore, in LCA No. 431 of 1981 he was directed to raise an industrial dispute with regard to it. The workman alleges that exparte departmental inquiry was conducted illegally and he was wrongful removal from service w.e.f. 26-6-84. He has therefore, prayed that he should be reinstated with full back wages.

3. In this case, the management have filed written statement as well as additional written statement. The sum and substance of these two is that the decision in LCA No. 431 of 1981 against which no appeal has been filed by the workman operates as bar to the present proceedings on the principles laid down in section 11 CPC. The reference is therefore void. Further section 2(a)(i) I. D. Act, confines the application of the I. D. Act to Railway Company and not to Railway Administration. The management deny that the workman was prevented from joining duty. In fact, he was holidaying and neglecting his duties. The management further plead that the workman had been on unauthorised absence w.e.f. 5-5-79. In LCA No. 431/81 the management filed the copy of order dated 3-12-81, whereunder he was reduce to the lower grade of Sr. Trains Clerk in the scale of Rs.530—560. On account of his continued absence he was served with a chargesheet dated 23-5-83, and as a result of the inquiry the penalty of removal from service w.e.f. 26-6-84 was imposed on him.

4. In his rejoinder, the workman has alleged no new fact.

5. In support of his case, the workman has filed his affidavits dated 14-7-87, and 13-9-88 besides a few documents. On the other hand, the management did not lead any oral evidence but relied on documentary evidence only in support of their case.

6. The management have filed documents connected with the two inquiries, one in which the punishment of placing

him in the lower grade of pay was passed and the second in which punishment of removal from service was passed. All these documents because of the certificate given under section 139 of the Railways Act have been admitted in evidence. Most of these documents have not been admitted by the authorised representative for the workman. Let us therefore, first consider the documents relating to the former inquiry and then the documents relating to the latter inquiry.

FIRST INQUIRY :

7. Ext. M-14 is the copy of chargesheet dated 25-10-79, by means of which he was chargesheeted with regard to his unauthorised absence from 5-5-79 to 25-10-79. Ext. M-16 is the photocopy of the reply dated 29-12-80 alleged to have been filed by the workman. The alleged signatures of the workman appears in English. I may state here that the workman has signed the pleadings, letter of authority and affidavits in Hindi in order to show that he always makes his signatures in Hindi. But this does not appear to be true.

8. Ext. M-11 is the photocopy of workman's reply dated 1-5-85. It has been admitted by the authorised representative for the workman. The reply is in English and it bears the signatures of the workman in English. The signatures of the workman on Ext. M-11 almost tally with his signatures on Ext. M-16. From the contents of the reply of documents Ext. M-16 it appears that the workman was a very senior railway employee who was due for retirement on 30-6-84. Therefore, it appears to me that the workman has deliberately made an attempt to avoid identification of his signatures by making his signatures on his claim statement, rejoinder, letter of authority and affidavits in Hindi.

9. In para 1 and 2 of his reply dated 23-12-80, copy Ext. M-16, the workman has alleged that never before he had committed a mistake like this which had occurred due to adverse circumstances. He was not given his due seniority by the Railway Administration. He was transferred to Jhansi instead of Mathura. His wife had died on 15-4-77. He has only daughters and no son. All of them are grown up and are studying in higher classes at Mathura. Because of all this he lost his balance of mind. Now he is physically fit. He wants that he should be given duty either at Mathura or at Delhi.

10. Ext. M-17, is the copy of letter dated 23-12-80 from the workman to the Enquiry Officer informing the P.O. that in the inquiry he would defend himself without any defence representative. Ext. M-19 is the copy of the reply given by the workman to the questions put to him in the inquiry by the Enquiry Officer. Reply to question Nos. 1 and 2 read as under :

Answer No. 1

"Yes. It happened due to mental imbalance, earlier to this no such thing has happened and have never been unauthorised absent except the solitary occasion."

Answer No. 2 :

"Yes. I am obliged and look forward for human and compassionate treatment. This is already near to my retirement. I beg to excused."

11. It is thus clear from the documents Ext. M-16 and M-19 that it was admitted by the workman that during the period 5-5-79 to 25-10-79 he had been on unauthorised absence. Ext. M-20, is the copy of finding dated 25-10-79, given by the Enquiry Officer. He found the charge as proved. However in view of the fact that he was mentally disbalanced on account of the death of his wife and his having 3 grown up daughters and no son, the Enquiry Officer recommended that a compassionate view be taken with regard to charge proved against him. The Enquiry Officer, also referred to the fact that the workman was nearing superannuation. In view of what is contained in documents Ext. M-16 and Ext. M-17, the findings given by the inquiry officer

cannot be called as perverse. Any body in his place would have taken the same view.

12. Ext. M-21 is the copy of order dated 3-12-81 of punishment passed by the OS(C) Jhansi and in his capacity as Disciplinary Authority. He agreed with the findings of the Enquiry Officer and ordered that the workman would stand reduced with immediate effect to the lower post/grade/service of Sr. Train Grade fixed Rs. 330 in the scale of Rs. 330—560 (RS), until he was found fit by competent authority to be restored, to the higher post/grade/service of Rs. 425—640 (RS) in the scale of Rs. 425—640 (RS). On restoration the period of reduction would have the effect on his seniority but his pay would be fixed at Rs. 560 from which it was being reduced. He also informed the workman that he could file an appeal within 45 days from the date of receipt of this order before the Appellate Authority.

13. This Tribunal cannot interfere with this order of punishment. The inquiry was conducted fairly and properly in accordance with the principles of natural justice and as such the order of punishment cannot be interfered.

SECOND INQUIRY :

14. Ext. M-1 and M-2 infact constitute one document. They are the copy of major penalty charge-sheet in SR-V served on the workman on 23-5-1983 with regard to his unauthorised absence from 26-10-1989 to 23-5-1983. The workman had admitted in his cross examination that he did received the charge-sheet on 23-5-1983.

15. Ext. M-3 is the copy of letter dated 23-11-1983, from the Enquiry Officer, to the workman informing him to attend the inquiry which had been fixed for 3-12-1983. In this letter reference was made by the Enquiry Officer to the earlier attempts made by him on 10-11-83, 11-11-83 and 12-11-1983 for the purposes of fixing date in the inquiry proceedings. He also referred to the facts that on 15-11-1983 he had sent a registered letter, copy Ext. M-13, informing him that 25-11-1983 had been fixed as the date for holding inquiry. But the registered envelope was received back with remark "REFUSED" of the postal authorities.

16. Ext. M-7 is the photo copy of the acknowledgement due receipt and that part of the envelope which bears the address of the workman. In the date 17-11-1983, the endorsement "refused" appears on it.

17. Ext. M-5 and M-6 are the photostat copies of that portion of the registered envelope which bears the address of the workman and the acknowledgement due receipt. The envelope was received back with the endorsement that at the time of delivery the house of workman was found locked and that it could not be said when he would come back. The workman was questioned about his home address of Mathura during course of his cross examination by Shri B. N. Bhattacharya, the authorised representative for the management. The address given by him in reply tallies with the address found written on the two registered letters. It was thereafter that the Enquiry Officer, proceeded ex parte against the workman.

18.—Ext. M-2 is the copy of Inquiry Report dated 26-5-84, The Enquiry Officer, found the charge of unauthorised absence as proved against the workman. Ext. M-8 is the copy of order of punishment passed by Shri S. K. Agrawal Divisional Railway Manager, Jhansi on 4-7-1984, although the letter is dated 26-6-1984. By means of this order the DRM removed the workman from service with immediate effect. The D. R. M. Jhansi also informed the workman that the workman could file an appeal within 45 days from the date of its receipt by him and that such an appeal would lie to COPS (BR) VT., Central Railway.

19. It may be argued that without service, proceedings were held ex parte against the workman.

20. The second registered acknowledgement due letter even according to the management was received back with the report

that the workman had gone out and that his house was locked. As such some further attempts should have been made by the Enquiry Officer to effect service on him. Prima facie it may appear so but a careful scrutiny of the evidence and circumstances as a whole would show that there is every probability of the workman keeping himself away from the inquiry deliberately.

21. I have also referred to the letter dated 23-11-1983 copy Ext. M-3 from the E.O. to the workman informing him that 3-12-1983 had been fixed as the date in the inquiry. While referring to this letter I have also observed that in his letter the E. O. referred to the earlier attempts made by him, to contact the workman for fixing dates in the inquiry and with regard to the dates earlier fixed by him in the inquiry. He has written that after being nominated as Enquiry Officer he visited Mathura Junction Station on 10th, 11th & 12th of November, 1983, in order to contact the workman for fixing up a suitable date for inquiry with his consultation but on all these dates the workman was not available at his residence. He therefore, sent a letter on 15-11-1983 by registered post acknowledgment due informing the workman that 25-11-1983 has been fixed as the date in the inquiry. Registered letter was sent by him was received back as Refused. We have also seen as to how in his claim statement he has expressed complete lack of knowledge about the first enquiry proceedings in which not only he filed reply but also gave his statements when questions were put to him by the Enquiry Officer. We have also seen that charge sheet of the second inquiry was received by him. This fact too has not been admitted by the workman in his claim statement we have also seen how the workman has unsuccessfully made an attempt to show that he signs in Hindi and not in English.

22. In his reply, copy Ext. M-16, the workman has referred to his having become upset mentally on account of various adverse circumstances. While referring to this document earlier, I have made mention all these circumstances. In his reply he also referred to the fact that because of these circumstances, he had sought his retirement w.e.f. 5th May, 1977. That has been stated by him towards the end of his reply was that he wanted his posting at Mathura or Delhi. There is no evidence that his transfer was even changed from Jhansi to the stations of his liking. We have further found that there is no substance in the case set up by him that since 5th May, 1979 he had been regularly going to office for doing duty.

23. Thus from the above discussions of evidence it becomes clear that in the circumstances in which he was placed he had no intention to report for duty at Jhansi. Being very much annoyed with the Railway Administration on account of death of his wife and the unsympathetic attitude of the Railway Administration, there is every probability of his having decided not to participate in the Enquiry and with this end in view there is every probability of his having decided to avoid service of notice of date in the enquiry.

24. I have gone through the findings of the Enquiry Officer and find that it is based on record and that the Enquiry Officer has rightly held the charge of unauthorised absence as proved against the workman.

25. We have seen that D. R. M. Jhansi awarded him punishment of removal from service by him order dated 4th July, 1984. In the ordinary course as per facts stated by the workman himself in his letter dated 1st May, 1985, copy Ext. M-11, he was due for retirement on 30th June, 1984. The punishment of removal from service is very likely to debar him from all the terminal benefits. I think it will

be too harsh a punishment for a man who has put in best years of his life in railway service. As stated above he was to retire on 30th June, 1984. Some times before his absence w.e.f. 5th May, 1979, he was transferred to Jhansi when he wanted his transfer at Mathura Junction or Delhi, as his wife had died in 1977 leaving 3 grown up daughters and no son who were studying at Mathura. Naturally the workman, like an ordinary man, would have become very much frustrated and discontented with his lot. Responsibilities in the absence of wife or any other grown up male member became much more in the case of female children. There is no doubt that he has not come with clean hands and deliberately avoided to participate in the second inquiry but that should not stand in the awarding of just punishment. The facts stated above were bound to make him mentally upset. Therefore, it would be a sufficient punishment to him if he is deemed to have retired on 30th June, 1986, on attaining the age of superannuation with the period of his absence from 26th October, 1979, being adjusted against every kind of leave due and permissible to him except medical leave and balance period of absence being treated as leave without pay. As earlier remarked by me after all he had put in best years of his life in railway service. The management has filed the service record of the workman. There is nothing to show that prior to 5th May, 1979, he had earned any bad entry for misconduct.

26. While holding that the two enquiries were conducted properly and fairly in accordance with the principles of natural justice by the management I hold that the punishment of Removal from service w.e.f. 26th June, 1984 of the workman was unjustified. The punishment in the circumstances of the case was harsh. I, therefore, modify the order or punishment of removal and award the following punishment to the workman.

"The workman would be deemed to have retired from service on attaining the age of superannuation on 30th June, 1984. The period of his absence from 26th October, 1979 shall be adjusted against all kind of leave due and permissible to him such as LAP, LHAP, except medical leave and the balance period of his absence, if any, will be treated as leave without pay."

27. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

[No. L-41012/20/86-D. II(B)]

नई दिल्ली: 15 जून, 1989

कॉ. आ 1441.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार दक्षिण पूर्वी रेलवे, चिब्रिजलय अफिम, हुबली के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अन्वय में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिग्रहण, ब्रिगलेर के पंचायत को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-89 को प्राप्त हुआ था।

New Delhi, the 15th June, 1989

S.O. 1441.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the annexure in the industrial dispute between the employers in relation to the management of South Eastern Railway, Divisional Office, Hubli and their

workmen which was received by the Central Government on the 31-5-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT BANGALORE

Dated : 22nd Day of May, 1989

PRESENT :

Shri B. N. Lalge, B.A. (Hons) LL.B.—Presiding
Officer.

CENTRAL REFERENCE NO. 160/87

I PARTY

Shri Rajkumar,
s/o Manick Rao Biste,
Kurathi Peth,
Near Mallikarjuna Hotel
Getageri Dist. Marwad.

Vs.

II PARTY

Asst. Machinical Engineer
South Eastern Railway,
Divisional Office,
Personal Branch.
Hubli.

APPEARANCES

For the I party Shri V. G. Kulkarni, Advocate.

For the II party Shri P. P. Hiremath, Advocate.

AWARD

By exercising its powers under section 10(1)(d) of the I.D. Act, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its order No. L-41012/57/86-D.II(B) dated 7-10-1987.

POINT OF REFERENCE

"Whether the action of the Assistant Mechanical Engineer, Loco, Hubli in removing Shri Rajkumar M. Biste, Ex-Loco Khalasi, from service with effect from 1-2-1982, is legal and justified? If not, to what relief the concerned workman is entitled?"

1. The first party workman has filed his claim statement, and his contentions in brief are as follows :

He was appointed as a Loco Khalasi on compassionate grounds, because of the death of his father, in haress. He was abruptly removed from service with effect from 1-2-1983 on charges of unauthorised absence. His signatures were taken by deceitful means on various papers, assuring him that his case will be considered sympathetically. He has been victimised. The domestic enquiry held against him is against the principles of natural justice. Without applying his mind, the disciplinary authority of the

second party has accented the conclusions and has removed him from service. He had preferred an appeal and had given a mercy petition. By an order dated 29-3-1984 he has been informed that the matter cannot be reviewed. His services have been terminated contrary to section 25F and other provisions of the I.D. Act. He prays that the order of removal from service dated 1-2-1983 be declared as null and void and to reinstate him and to grant all the consequential benefits.

2. The second party has filed the counter statement, and inter alia it is contended as follows :

It is not disputed that he was appointed on compassionate grounds on the death of his father. It is not admitted that he was working to the satisfaction of the management or that he was abruptly removed from service. The contents of paras 2 to 6 of the claim statement are denied. It is not correct that knowing that he cannot defend properly, his signatures were taken on various papers on the assurance that his case will be considered sympathetically. It is not correct that he has been victimised. The averments made in paras 7 to 9 in the claim statement are not admitted. While he was working he remained unauthorisedly absent for 89 days from June 1980 to December 1980 and for ten days in January 1981. A charge sheet was issued to him on 25-2-1981. He submitted his explanation. It was not satisfactory. One M. G. Kaleghatagi was appointed as an enquiry officer. He conducted the enquiry in accordance with the rules and the law on different dates such as, 30-5-81, 30-8-81, 8-10-81 and 18-11-81. Intimation was sent to him but he did not bother to attend the enquiry. Finally, the enquiry was adjourned to 30-11-81. He attended and on that day enquiry was conducted. He admitted his unauthorised absence. He did not give reasons for his unauthorised absence. The enquiry officer submitted his report. After careful consideration of the same and the evidence on record, the second party found that he was not a fit person to be retained in their service. An order was passed to this effect. The reference may be rejected.

3. On 18-2-1988 the second party filed an additional counter statement and inter alia it was contended that this Tribunal has no jurisdiction and that the Central Administrative Tribunal has the exclusive jurisdiction.

4. On 22-4-1988 one more additional counter statement was filed and there-in the second party contended that in case this Court holds that the domestic enquiry is not sustainable it may be permitted to adduce evidence and prove its case. It was also contended that the management has lost confidence in him and that he is otherwise employed, elsewhere.

5. On 29-1-1988 the following preliminary issue was framed.

Whether the second party proves that it has held the domestic enquiry in accordance with law?

6. On 18-2-88 additional issue No. 2 was raised as shown below.

Whether this Tribunal has no jurisdiction to entertain the reference ?

7. It was heard as a preliminary issue.

8. In CR. No. 115/87 this Tribunal has held by an order dated 5-7-1988 on a similar issue, arising in that case that this Tribunal has the jurisdiction and that the provisions of Administrative Tribunals Act of 1985 do not bar the jurisdiction of this Tribunal.

9. Thereafter preliminary issue No. 1 was taken up.

10. The management examined MW-1, the enquiry officer and got marked Exs. M-1 to M-14.

11. The learned counsel for the first party submitted that he had no evidence on the said issue.

12. The parties were heard.

13. By a considered order dated 26-5-88, it was held that the domestic enquiry conducted by the management is not in accordance with law. The second party was permitted to adduce evidence and to prove its case.

14. The second party then examined MW-2 and got marked Exs. M-15 and M-16.

15. On 10-12-1988 the workman was examined as MW-1 and Exs. M-17 to M-20 were got marked.

16. The parties have submitted their written arguments.

17. My finding on the point of reference is as follows.

18. The action of the Assistant Mechanical Engineer, Loco, Hubli in removing from service Shri M. Kumar one Biste, Khalasi, Hubli with effect from 1-2-1982 was justified, but however it is found to be a fit case to order for reinstatement without backwages, by invoking the provisions of section 11A of the I.D. Act.

REASONS

19. In June 1980 MW-2 Venkateswaran was working as the Head Clerk in the time section of the Loco foreman's office, Hubli. There is no dispute on the point that at that time the workman Rajkumar was working as a Khalasi in the Loco Office. MW-2 has sworn that the first party workman was irregular in attendance. He has produced the original attendance registers of 1980. In para 4 of his evidence he states that from 2-6-1980 till 10-1-1981, he had remained absent for 99 days. The register of 1980 is Ex. M-15 and that of 1981 is Ex. M-16. Ex. M-15 (a) is a xerox copy of the relevant page of 1980 and Ex. M-16 (a) is a xerox copy of the relevant page of 1981. At Sl. No. 802 of register of Ex. M-15, there is the name of the first party Rajkumar. It shows that he remained absent from 2-6-1980. Ex. M-16 also substantiates the evidence of MW-2. It further appears in the evidence of MW-2 that since he had unauthorisedly remained absent, a report had been made to the Di-

visional Personnel Officer Hubli and on that basis an enquiry had been initiated against him. Ex. M-1 is the article of charge issued to him. The annexure of Ex. M-1 at Ex. M-2 discloses that he had been unauthorisedly absent for 99 days. Ex. M-3 is the list of documents on which the management intended to rely upon. Ex. M-4 is the acknowledgement given by the workman for the receipt of the memo Ex. M-1. Ex. M-5 is the explanation given by the workman. In Ex. M-5 he states that his said absence was on account of the fact that his mother was mentally affected after the death of his father and that he had to accompany her to certain places for her medical treatment, and that there is none else to attend to her. He further states that he was himself suffering on account of some boils and he was taking medical treatment at the nearest place and he was not attending to the Railway hospital and that his case may be treated sympathetically. It appears that the management was not satisfied with the explanation and therefore MW-1 Kalaghatagi was appointed as the enquiry officer as per Ex. M-6. Ex. M-7 to M-11 are the notices of enquiry. Ex. M-12 is the proceeding of the enquiry. Ex. M-13 is the finding of the enquiry officer. The documents at Exs. M-7 to M-11 are of no consequence at this stage since the enquiry has been set aside. Now it requires to be examined how far the management has succeeded in showing that the first party workman had committed an act of misconduct of remaining unauthorisedly absent for 99 days as shown in Ex. M-2. Not only the evidence of MW-2 Venkateswaran and the documents at Exs. M-1 to M-6, M-15 and M-16, but also the admission made by the workman in his explanation Ex. M-5 prove the said fact. WW-1 Rajkumar, the workman has however stated that in June 1980 and in January 1981 he was absent only for 10 days. In para 4 he however states that he had given six applications for leave. No office copies of such leave applications have been produced. In order to prove that the workman has signed his explanation Ex. M-5, the defence has got marked the signatures of the workman made in the claim statement and also in the vakalath. In para 11 of his evidence WW-1, the workman admits that he has signed in Ex. M-5 at Ex. M-5 (a). In para 12 he however states that he had not sent Ex. M-5, to the management. There is no case put forth by him in the claim statement that Ex. M-5 is a connected document. There is not a suggestion made to MW-2 that the management had fabricated a documents such as Ex. M-5 containing the admitted signature of the workman as Ex. M-5 (a). When the signature of the workman on his application under section 36 of the I.D. Act at Ex. M-17 was pointed out to him, he has stated that it is not his signature. The signature is marked as Ex. M-1 (a). The order sheet of this Court shows that Ex. M-17 is an application filed by the first party where-by permission was sought for engaging a lawyer. Ex. M-18 is the vakalath of Shri V. G. Kulkarni the advocate for the first party. The signature at Ex. M-18 (a) was shown to the workman but he has denied about the signatures at Ex. M-17 (a) Ex. M-18 (a). The learned counsel for the first party has no contention that Ex. M-17 and Ex. M-18 do not bear the signatures of the first party workman at Ex. M-17 (a) and Ex. M-18 (a). The statement of the first party workman that the signatures in the proceedings at Ex. M-12

(a) and Ex. M-12 (b) are not his does not find any support. It has not been pleaded in the claim statement. It cannot be believed in view of the fact that he has denied his own signatures at Exs. M-17 (a) and M-18 (a). It has been suggested to WW-1 (a) kumar in para 18 that he had never given any leave application. In para 17 WW-1 however states that he does not remember on which dates he had given the leave applications. In para 20, WW-1 has been questioned about his application dated 3-5-1982, Ex. M-19. He has stated that the Signature at Ex. M-19(a) is not his signature. In Ex. 19 it has been stated that he had been appointed on compassionate grounds, since his father and brother have both expired and that because there was heavy burden on his shoulders, and that otherwise he cannot manage his family. It is further stated that his mother had some mental dis-order and therefore he had run away from his house and was staying in temples etc. He has then contended that he is the only son to his parents and he has to look after unmarried sisters and widowed mother. He has then prayed that mercy may be shown to him and the second party may appoint him as a fresh candidate. Ex. M-20 is the legal notice issued by the Advocate of the first party. It has been admitted in para 4 of Ex. M-20 that the first party had given mercy petitions, to consider his case sympathetically, but there was no response. It is strange that having admitted about mercy petitions in Ex. M-20, WW-1 the workman is now denying. Ex. M-19 his own mercy petition dated 3-5-82. It has been suggested to MW-2 Venkateswaran that the entries made in Ex. M-15 and M-16 are not correct, but it is important to note that no motive have been suggested. No case has been put forth either in the claim statement or in the legal notice of Ex. M-20, that any official or officer of the second party was interested in fabricating false records against the interests of the workman. In para 16 of his evidence MW-2 Venkateswaran has categorically sworn that he used to allot work to the first party workman. The attendance registers Exs. M-15 and M-16 have been maintained in the routine course of official business and a presumption arises regarding the correctness of the entries made there-in. I find that there is no substance in the contention of the first party that he did not remain absent as shown in the article of charges at Ex. M-2.

20. The order at Ex. M-14 dated 18-1-82 shows that the management found that he was not a fit person to be retained in their service and hence his service was dis-continued.

21. After the second party amended the counter statement, the first party workman was given an opportunity to file a rejoinder, if any. On 10-12-1988 he has filed a rejoinder. Therein he has contended that during the entire period of his service he has been marked absent only for 10 + 10 days, and out of them he has been marked absent on some days only on account of reporting late to duty. It is further contended that on certain occasions he had given leave applications, but they have not been considered. It is then explained that due to the sudden demise of his father and elder brother, his mother got mentally affected and she used to run away from the house in hysteric conditions. It is then stated that on such occasions he had to search her and

bring her back to the house and he used to be a bit late. It is also contended that, on account of delay in the departure of the train from Gadag to Hubli, their used to be delay. It is conceded that in the period of two years he had remained absent for 20 days. It is not the case of the first-party workman that he had sent any written representation to any superior officer that MW-2 or any other official of the two Loco Department used to mark absent if he used to go there to bit late. No evidence has been adduced by him that on certain days when he used to go late, the concerned official had wrongly marked him as absent. It is not his case, that when he received his wages though he had not been paid for the days that he was marked absent he did not raise objections for marking absent in spite of his attending late. It suffices to hold that the case put forth by the workman in the rejoinder dated the 10th December 1988 cannot be accepted, in the face of the record at Exs. M-15 and Ex. M-16 and the evidence of MW-2. In addition, there are the admissions made by the workman himself in his explanation in Ex. M-5 and his mercy petition Ex. M-19.

22. The original entry at Ex. M-15 shows that he had been appointed as a Khalasi on 20-5-80 as per order dated 12-5-80. It is an admitted fact that his service was discontinued with effect from 1-2-83. In the written arguments submitted for the second party it has been contended that the first party has now taken a different contention and that there is no pleading in the claim statement that he had remained absent only for ten days in each year or that he had given leave applications for the rest of the period. It has been then contended that the action taken by the management is in accordance with the service regulations.

23. In the written arguments submitted from the first party it has been contended that in the years 1980 and 1981 he was absent only for 10 + 10 days. On facts it has been held that the management has proved that he had unauthorisedly remained absent for 99 days as shown in Ex. M-2, between 20-5-80 and 1-2-83. In the written arguments of the first party it has been contended that the second party has not proved that Ex. M-1 to M-3 had been served on the first party. The explanation given by the workman at Ex. M-5 is contradictory to the said submission. As regards the contentions raised in connection with the attendance registers at Ex. M-15 and Ex. M-16, there is already a finding that there is nothing to disbelieve the same. It has been contended in the written arguments of the first party that the pay acquittance rolls have not been produced and an adverse inference arises. The first party did not seek for their production. Secondly, the matter is coming up for trial after several years and it cannot be expected of a big establishment such as Railways to produce the acquittance rolls. In my view since the attendance registers have been produced as per Ex. M-15 and Ex. M-16, no adverse inference arises for non production of pay rolls. Reference has been made to the case of AIR 1961 Supreme Court, page 1316. The observations made in regard to the account books which a businessman is expected to maintain, cannot apply to a case of the

present nature. The authority of AIR 1977 privy-council page 6 has not been produced before me. It is difficult to appreciate the contention in that regard. It has been stated in the written arguments of the first party that the order of termination at Ex. M-14 is vague, and that it is not a speaking order and that it cannot be sustained. It has been then stated that the order of penalty is passed under rule 6 (viii) of the Railway Servants (Disciplinary and appeal) rules 1968 and that a copy of the same is enclosed. The copy enclosed is of Railway Servants (Disciplinary and appeal rules, but rule 6 deals only with the penalties that can be imposed. The said rules deal only with the procedural matters. They are not applicable to the case at hand. The learned counsel for the first party has enclosed a xerox copy taken from the guide to departmental enquiries. In my opinion the observations made in the guide cannot be the criterion to decide about the misconduct alleged against the workman.

24. The learned counsel for the first party has cited the case of *L. Robert D'souza Vs. Executive Engineer South Railway* (AIR 1982 Supreme Court page 854). The facts of the case of D. Robert would show that the workman was on hunger strike and he broke his fast on 28-9-74, but the management contended that it was deemed that he had been terminated from service with effect from 18-9-1974. The authority shows that in case of a workman who had attained temporary status rule 2501 and rule 2505 apply. The authority shows that once a person acquires temporary status, the conditions of his service would be as set out in Chapter 23 of the rules. Rule 2302 in Chapter 23 of the rules reads as follows:—

25. 2302 the termination of service

(1)

(2)

(ii) is deemed to have resigned his appointment and ceased to be a railway employee in the circumstances detailed under note 2 below exception II to rule 732 (1) of the Indian Railway Establishment Code Vol. I. Exception II to rule 732 (1) of the Indian Railway Establishment Code Vol. I shows that the concerned officer may grant extraordinary leave without leave salary on the ground of the illness of the Railway servant or on any other ground other than the one shown in exception I note 2. Exception I states that where a temporary railway servant fails to resume to duty and remains absent exceeding the limit upto which he could have been granted leave under sub rule I, it shall be deemed that he has resigned his appointment and accordingly he shall cease to be in the employment of railway. In the light of the principles laid down in the aforesaid authority in the context of rule 2302 and note 2 to exception II of the rule 732 I find that the second party was justified in its action, and that the first party workman cannot claim reinstatement and backwages as of right.

26. The evidence on record discloses that the elder brother of the first party workman had been

issued with an order of appointment in the Railways, since their father had died in harness, but that unfortunately before he reported to duty, he also passed away. It is further to be found from the record that then the first party workman was appointed on the same compassionate round that his father had died in harness and that his older brother could not be appointed in his place. It also appears on record that on account of two sudden deaths, his mother had lost mental balance and she had become hysteric and she used to run away from house and all these factors contributed to his absence. It also appears on record that the first party workman had also run away from his house, used to roam about here and there, and had taken shelter in temples and of late he had become more conscious about his responsibilities to maintain his mother and look after his unmarried sisters. These facts have not been challenged by the second party. MW-2 states that he does not know whether the first party had to countenance all these calamities. In Ex. M-19 the first party workman had himself sought for appointment as a fresh candidate and to help him to maintain his family. Taking into account all these factors I find that it is a fit case for invoking the jurisdiction under section 11 A of the I.D. Act and to pass an order for reinstatement of the workman without any backwages or other consequential benefits.

27. In the result, an award is passed to the effect that the Assistant Mechanical Engineer Loco Hubli was justified in taking the impugned action against the first party workman, but however by invoking the jurisdiction under section 11A of the I.D. Act, it is directed that the second party shall reinstate him within one month from the date on which this award comes into effect, but without an backwages or any other consequential benefits.

(Dictated to the personnel assistant taken down by her, got typed and corrected by me).

B. N. LALGE, Presiding Officer

[No. L-41012/57/86-D.II(B)]

का.अ. 1442:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 11) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पश्चिम रेलवे प्रशासन कोटा के प्रबंधन में सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-5-89 प्राप्त हुआ था।

S.O. 1442.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Western Railway Administration, Kota and their workmen, which was received by the Central Government on the 25-5-1989.

ANNEXURE

नई दिल्ली, 26 मई, 1989

BEFORE SHRI G. S. KALRA, PRESIDING
OFFICER, CENTRAL GOVT. LABOUR
COURT, NEW DELHI

I.D. No. 41/88

In the matter of dispute between

Shri S. C. Kataria through
Paschim Railway Karamchhari Parishad,
Kota.

Versus

The Management of Western Railway,
Kota.

APPEARANCES

Shri A.D. Grover for the workman.

Shri Uttam Chand A.P.O. for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-41012(10)/84-D.II(B) dated 31-10-84 has referred the following industrial dispute to the Central Industrial Tribunal, Jaipur for adjudication :—

“Whether the action of the General Manager, Bombay/D.R.M. Kota in not giving seniority to Shri S.C. Kataria, Inspector HOER, W. Rly. Kota in comparison to Shri P. K. Jain a junior hand as per seniority in the MOGG Unit is justified? If not, to what relief is Shri S. C. Kataria entitled?”

Subsequently the dispute was transferred to this Tribunal vide Ministry of Labour Order No. L-41025-(4)/85-DII(B) dated 6-1-1987.

2. As the dispute has been amicably settled between the parties it is not considered necessary to set forth in detail the pleadings of the parties. Suffice it to say that the Paschim Railway Karamchhari Parishad (hereinafter referred to as the Union) has filed a statement of claim and the Management also filed its written statement. Today the workman has filed a written application (Ex. W-1) to the effect that he has been promoted to the post of Assistant Personal Officer and he has nothing to gain out of the present case and therefore, it may be dropped. The statement of Shri A. D. Grover representative of the union has also been recorded and he also affirmed that the workman has since been promoted as A.P.O. and got relief as claimed in the dispute and, therefore, the case may be closed. Hence no dispute award is given and this reference is disposed of accordingly.

G. S. KALRA, Presiding Officer

8th May, 1989

[No. L-41012/10/84-D.II(B)]
HARI SINGH, Desk Officer

न.आ. 1143.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 26th May, 1989

S.O. 1443.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the Vijaya Bank and their workmen, which was received by the Central Government.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated 27th day of April, 1989

PRESENT :

CENTRAL REFERENCE NO. 42/88

I PARTY

Shri M. Nagarajachar, Peon
C/o B. Dattam Bhat
Ambanna Compound
18th Ward,
Degangapeth, Hospet

Vs.

II PARTY

The Chairman,
Vijaya Bank,
Head Office
No. 2 Residency Road,
Bangalore-560025.

APPEARANCES :

For the I party—Shri B. D. Kuttappa, Advocate.

For the II party—Shri K. Jagadeesh Alva, Advocate.

AWARD

By exercising its powers under Section 10(1)(d) of the Industrial Disputes Act, the Government of India, Ministry of Labour made the present reference on the following point of dispute by its order No. L-12012/47/83-D.IV(A) dated 27th August, 1984.

POINT OF REFERENCE

“Whether the action of the management of Vijaya Bank in relation to its Hospet Branch in not providing employment beyond February 19, 1983 to Shri M. Nagarajachar, Peon is justified? If not, to what relief is the workmen concerned entitled?”

2. The matter was in the first instance referred to the Industrial Tribunal constituted by the Government of

Karnataka and it was numbered as C. R. 26/1984. An ex-parte award was passed therein. The I party workman challenged the ex-parte award in W.P. No. 5548/86. The writ petition was allowed and the matter was remitted to the Industrial Tribunal, Bangalore. By letter No. L-12012/47,83-D. IV(A) dated 4-8-1988, the Government of India, Ministry of Labour referred the matter to this Tribunal.

3. The I party workman has filed his claim statement and inter alia, it is contended as follows.

He joined the II party as a temporary peon in 1976. He continued to work till 1983. Thereafter his services were illegally terminated. He made a number of representations to regularise him but his request was not considered. He had put in a service of six years and he had an excellent record of service. The II party never thought of regularising him, though his name had been sponsored by the Employment Exchange. He was informed about it. His services have been terminated in 1982, on the ground that his name was not sponsored by the Employment Exchange. Thereafter, one Mr. Kotresh was appointed as a temporary peon, in 1983. It is a case of appointment against a permanent vacancy. The break in his service was artificial. The bank has indulged in unfair labour practice. The services rendered by him shall have to be treated as continued under Section 25-B of the I. D. Act. There was a permanent vacancy in Hospet branch, where he had worked. He had all the required qualifications. As per the Bipartite settlement, he was entitled for permanent absorption. The II party has employed thousands of employees every year and a number of branches are opened every year. The action of the management is arbitrary and capricious. It is illegal. It amounts to retrenchment in violation of the provisions of Section 25-F. He was not given one month's notice nor paid any compensation. The termination of his services is in contravention of Section 25-G, 25-K and 25-N of the I.D. Act. He then raised an industrial dispute, but the conciliation failed. After the reference was made, he had contacted the Vijaya Bank Workers' Organisation and had sent his vakalathnama to the General Secretary of the organisation. He was under the bona fide impression that the union was conducting his case but he learnt that his claim has been rejected. Then, he filed a writ petition and the matter has been remitted for disposal. An award may be passed for his reinstatement with all the consequential benefits.

4. The II party has filed its counter statement, and inter alia, it is contended as follows.

The claim made by the I party is speculative. It is denied that he had joined as a temporary peon in 1976. He has not worked continuously from 1976 to 1983. There is no termination of his service. He had no right to be appointed for a permanent vacancy. The question of his making several representations does not arise. He has not submitted any representation. He has never worked against any permanent vacancy. Compared to the clerical staff, the members of the sub-staff absent themselves very frequently. During such absence, it becomes necessary to engage persons purely on temporary basis. There was a temporary vacancy of a peon in Hospet branch due to the absence of a regular sub-staff and the I party was employed on purely temporary and ad hoc basis during his absence. It was occasional. It did not confer any right on him for claiming absorption. It is denied that he has continuously worked for six years. It is irrelevant, that he was always ready and willing to work. His temporary engagement at no time exceeded 90 days. At no point of time, he has rendered continuous service of 240 days in any year. His service was not continuous within the meaning of Section 25-B of the I.D. Act. A permanent vacancy, if any, requires to be filled-up in accordance with law. The vacancy shall have to be notified to the Employment Exchange and the selection of a candidate shall have to be of a candidate sponsored by the Employment Exchange. If persons taken on ad hoc basis are regularised or made permanent, the rules become nugatory. He had no right to claim absorption. There was no vacancy for which he should be absorbed. There was

no vacancy against which he could have continuously worked for six years. Branches are opened as and when permitted by the Reserve Bank of India. Recruitments are made strictly in accordance with law. No provision of the Section 25-J, 25-G, 25-K or 25-M has been violated. The service conditions of employees are governed by the Bipartite settlement. The Award Staff are entitled to 33 days of privilege leave plus 12 days of casual leave and one month sick leave per year. If an employee has put in 24 years of service, he would be further eligible for sick leave at the rate of one month for each year in excess of 24 years. In addition, an employee will be entitled to extraordinary leave for a period of 12 months. Though the leave rules provide for notice, the members of the sub-staff often avail leave without any notice. The incidents of sudden absence is more in the case of sub-staff. In view of the important work they do in the day to day working of the bank, it becomes necessary to engage persons purely in vacancies caused on account of such absence. The awards and settlements have recognised the said facts. The provisions of clauses 20.7 and 20.8 of the Bipartite Settlement of 1966 provide for the same. The other averments made by him are denied. The reference may be rejected.

5. Since the I party has amended the claim statement, the II party was permitted to file an additional counter statement and therein it has been denied that his services have been illegally terminated on the ground that his name was not sponsored by the Employment Exchange. He was not engaged in 1982. If he had not been engaged in 1982, the II party would not have engaged him again in 1983 against leave vacancy. One Kotraiah was engaged in the leave vacancy caused by the absence of a permanent peon by name Gururaj and it was for fifteen days for the period between 15-3-1982 and 3-4-1982. The bank has never made any artificial break in his service. It has not indulged in any unfair labour practice.

6. In order to justify its action, the II party bank has examined one witness and has got marked Exs. M-1 to M-8.

7. The I party workman has examined himself and got marked Ex. W-1.

8. The parties have been heard.

9. My finding on the point of reference is as follows :

The management of Vijaya Bank was justified in not providing employment beyond 19-2-1983 to Shri M. Nagarajachar. Peon and the workman is not entitled to any relief.

REASONS

10. In the claim statement, it has been contended by the I party that he was in the service of the II party bank from 1976 to 1983. The II party, on the other hand, has contended in the counter statement that he has not continuously worked between 1976 and 1983. In para 6 of the counter statement, it has been further contended that at no point of time his engagement exceeded 90 days in a period of 12 months. In view of the said rival contentions, it requires to be examined, in the first place as to what was the exact number of days he had worked with the II party. In para 2 of the evidence, WW-1 Nagarajachar has sworn that from 1976 to 1981 he regularly attended the Bank at 10.30 a.m. and he used to be there till 11 a.m. and within that time the II party had appointed him on two occasions. The management refuted the contention of the I party that he had continuously attended the bank from 1976 to 1981. MW-2 Shri T. V. Balakrishna was the Branch Manager of Hospet branch between 1973 and 1979. He has produced the acquittance registers for the years 1976 and 1977 to 1989. at Exs. M-1 and M-2. On page 42 of the Acquittance roll, Ex. M-1, it is to be found that the I party Nagarajachar was engaged for 27 days from 5-7-1976 to 31-7-1976 and again from 1st to 14th Aug. 1976 for 14 days. The register for the years 1977 to 1979 at Ex. M-2 shows on page 3 that he had worked on 29th and 30th of September and again from 25th to 31st of October 1977. Ex. M-2 on page 14 shows at Ex. M-2(b) and Ex. M-2(c) that he had worked on certain days in 1977. It again shows on page 45 at Exs. M-2(f) (g) and (h) that he had again worked for some

more days. The entries at Exs. M-2 (b) and M-2 (e) disclose that in December 1977, he had been engaged for one day in March 1978 for 17 days in April and May 1978, for 17 days & in May and June for 23 days. The entries at Exs. M-2 (f) to M-2 (h) disclose that he had worked in September/October 1978 for 23 days, 10 days and one day respectively. The evidence of MW-1 Shri G. Ratnakara Shetty, the Branch Manager between 1979 and 1981 discloses that during his tenure he had engaged the I party workman on two occasions and for 15 days each time. The said appointment letters have been got admitted at Exs. M-3 and M-4. The letters at Exs. M-3 and M-4 substantiate the evidence of MW-1. The evidence of MW-2 Balakrishna is supported by the entries of Exs. M-1 and M-2, as described above. The management has then produced the leave record of two permanent peons at Exs. M-5 and M-6. The leave record at Exs. M-5 and M-6 shows that whenever the permanent peons had gone on leave, the I party Nagarajachar was engaged on temporary basis.

11. In para 2 of his evidence WW-1 Nagarajachar admits that he was given the appointment orders as per Exs. M-3 and M-4. In para 3, he further admits that there were only two permanent peons in the said branch by name Rudranna and Gururaj. He further admits in para 5 that from 1976 to 1983 there were three branch managers by name, Balakrishna, Ratnakara Shetty and Sridhar Shetty. In para 16 of his evidence, he concedes that in 1976, he had worked for 41 days, in 1977 for 15 days, in 1978 for 97 days, in 1979 for 76 days, in 1980 for 15 days, in 1981 for 15 days and in 1982 on no date. From para 25 of his evidence, it is obvious that in 1983, he had given an application dt. 4-4-83 to the Labour Officer, as per Ex. M-7. The statements made by WW-1 Nagarajachar in Ex. M-7 show that he had worked for some days only from the years 1976 to 1982 as shown above. Ex. M-7 further shows that from 12-1-83 to 19-2-1983, he had worked for 33 days only in the entire year. The workman had enclosed a statement showing the number of days he had worked in the bank and it is at Ex. M-8. From 1976 to 1983, he had in all worked for 292 days. Ex. M-8 constitutes an admission and it does not lie in the mouth of the I party to fall back on the same. It shows that in no year, he had put in service of 240 days or more. On facts a finding emerges that the evidence on record establishes for the management that the I party had put in only 292 days of work from 1976 to 1983, as shown in Ex. M-8. The certificate produced by the workman as per Ex. W-1 shows about his service in 1976. The service shown in Ex. W-1 has been included in Ex. M-8.

12. The learned counsel for the II party has placed before me the authority of Karur Vysya Bank Employees' Union Vs. Central Government Industrial Tribunal, Bangalore and another (1988 III L. N. High Court of Karnataka page 794). The authority shows that if the bank had utilised the services of a casual worker intermittently and if it is shown that he had not worked in any year for 240 days, the provisions of Section 25-F will not be applicable. It was submitted before me that in view of the said authority, the I party cannot claim any reinstatement or back wages, since in no year next preceding to the alleged date of discontinuance, he had put in work of 240 days.

13. The learned counsel for the I party has placed before me the authority of Karnataka State Road Transport Corporation Vs. M. N. Subba Rao (F.J.R. Vol No 70 page 265). The authority deals with the question of payment of back wages. The case of the I party workman is that he continued to work till 1983 and thereafter his service was illegally terminated in 1983. The statement signed by the workman himself at Ex. M-8 shows that the last date he worked was 19-2-1983. Taking any block period of twelve months next preceding 19-2-1983, such as 20-2-82 to 19-2-83 or 20-2-81 to 19-2-82, like that in no year, he has put in service of 240 days, so as to hold that the management has not complied with the provisions of Section 25-F, read with Section 25-B of the I.D. Act. The principle laid down in the authority will be attracted only if the termination of service is held to be illegal. The facts of the case at hand would show that the authority of Karur Vysya Bank Employees'

Union supra is applicable, whereas the principles laid down in the authority of the KARTC has no bearing.

14. The learned counsel for the I party cited the case of workmen of American Express International Banking Corporation Vs. The Management of American Express International Banking Corporation (1985 II L.L.J. page 539). The facts of the reported case would show that the workmen contended that he had joined as a Typist Clerk on 4-11-1974 and the management had terminated his services on 31-10-1975 and that he had put in about 275 days of service during the period of 12 months preceding the date of termination. The management on the other hand, had contended that he had actually worked for 220 days only and the question of retrenchment did not arise. The Hon'ble S.C. held that sundays and other paid holidays during the said period ought to have been included and on inclusion of the same, it was held that he had put in more than 240 days of service and the provisions of Section 25-F had been attracted and that since there was no compliance, the workman was entitled to the reliefs claimed. Since the facts of the case at hand are entirely different and since it is not established that he had put in 240 days in any preceding year, I find that the principles laid down in the authority are not attracted.

15. The learned counsel for the I party then cited the case of Shri H. D. Singh Vs. Reserve Bank of India and Others (1986 I L.L.J. Page 127). From page 131, it would be evident that he had put in 202 days of work from July 1975 to July 1976 and on adding 52 sundays and 17 holidays, it was found that he had put in 271 days of work next preceding the date of his discontinuance. In view of the said fact, the Hon'ble S.C. held that the management ought to have complied with Section 25-F of the I.D. Act and since the management had not complied with, the workman was granted the reliefs claimed. It is reiterated that in the case at hand, in to year next preceding to the date of discontinuation, the workman Nagarajachar had put in 240 days of service. The authority cited for the I party, thus cannot assist him.

16. The learned counsel for the I party contended that his services did not come to end automatically, but they were discontinued. The two letters at Exs. M-3 and M-4 do not support the said contention. Since it is admitted that he was being engaged only during leave vacancies of the permanent sub-staff, I do not find that there is any force in his contention that he used to attend the bank every day and used to return only if the bank used to tell him that there was no work for the day.

17. The learned counsel for the I party submitted that MW-2 Balakrishna has admitted that Nagarajachar had been appointed as a temporary peon and thus it may be held that he continued to be in service and that the discontinuance is illegal. The letters at Exs. M-3 and M-4 make it clear that the appointment was only for a period of 15 days on each occasion and the alleged discontinuance cannot be termed as retrenchment.

18. The learned counsel for the I party strongly argued that the work put in by the temporary peon, viz., the party was of the same nature as to work put in by the permanent peons and thus the discontinuance amounts to illegal termination. It is of no consequence as to what was the nature of work the I party was doing while he was engaged as a peon during the leave vacancy of permanent staff. Merely because, he was doing the same work, it does not follow that he becomes entitled to the post of a permanent peon.

19. The learned counsel for the I party has referred to some bipartite settlement and contended that 14 days notice was necessary to terminate his service. No book has been produced before me. The book with the caption Service Regulations and Emoluments of Workmen in Banks compiled and edited by Shri H. Gururaja Rao—First Edition—April, 1985 shows that temporary employees have certain rights as shown in Clauses 20.7 to 20.12. On going through the said provisions, I do not find any provision which entitles the I party to claim that the II party bank ought to have served any notice on him or ought to have paid any compensation before his service was discontinued with effect from 19-2-83.

20. The learned counsel for the I party contended that the bank has not used any order of termination and that the bank has indulged in unfair labour practice in as much as one Kotresh was preferred and has been appointed, whereas the I party workman should have been appointed in his place. In para 9 of his evidence, WW-1 states that in 1981 the II party took one Kotresh from the Employment Exchange and when he asked about it, he was told that because Kotresh had been taken from Employment Exchange, he could not get there for work any more. He further admits that his name was not sponsored by the Employment Exchange. In para 11, he adds that in 1983, he was engaged once again, because Kotresh did not attend regularly and on that occasion he was told that he was overaged. These questions whether the II party bank was responsible for the Employment Exchange not sponsoring the name of the I party and whether the II party was justified in appointing Kotresh only for the reason that he had been sponsored by the Employment Exchange are not pertinent to the question whether there is any justification for the management in not providing work to the I party beyond 19-2-1983. I am of the view that the said contentions do not hold water.

21. The learned counsel for the I party submitted that notice of 14 days was necessary before the said discontinuance. Since the engagement was in the leave vacancies, I am of the view that no notice of 14 days was necessary at all.

22. The evidence on record shows that the management has established that there was no obligation on its part to provide any work to the I party beyond 19-2-1983.

23. In the result, an award is passed to the effect that the management of Vijaya Bank in relation to its Hospet Branch was justified in not providing employment to Shri M. Nagarajachar.Peon beyond February 19, 1983 and that he is not entitled to any relief.

(Dictated to the Stenographer, taken down by her, got typed and corrected by me).

B. N. LALGE, Presiding Officer
[No. L-12012/47/83-D.IV(A)]

नई दिल्ली, 12 जून, 1989

का. आ. 1444,—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनाइटेड बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधीकरण नं. 1 बम्बई के (बम्बई को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-89 को प्राप्त हुआ था।

New Delhi, the 12th June, 1989

S.O. 1444.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Bombay as shown in the Annexure in the industrial dispute between the employers in relation to the United Bank of India and their workmen, which was received by the Central Government on the 31-5-89

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1 AT BOMBAY

Reference No. CGIT-29 of 1987

PARTIES :

Employer in relation to the management of United Bank
of India

AND

Their workmen.

APPEARANCES :

For the Management : Mr. P. K. Rele, Advocate.

For the Workmen : Mr. S. M. Dharap, Advocate.

INDUSTRY : Banking.

STATE : Maharashtra.

Bombay, dated the 2nd day of May, 1988

AWARD

The Central Government, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, has referred the following dispute for adjudication to this Tribunal :—

“Whether the action of the management of United Bank of India Bombay in dismissing from service Shri M. M. Ghayale, Driver-cum-Peon w.e.f. 1-12-1986 was justified ? If not, to what relief the concerned workman is entitled ?”

2. The workman Shri M. M. Ghayale, was dismissed from service for the gross misconduct mentioned in clause (e) of paragraph 19.5 of the Bipartite Settlement dated 19-10-1966 for disobedience of the order passed by the Regional Manager, Western Region directing him to vacate the Bank premises in his occupation.

3. The workman, who was in the permanent employment of the Bank as Driver-cum-Peon was admittedly in occupation of Room No. 9, of the Servant Quarters in the Hindustan Insurance Building Society, situated at Almount Road, Bombay and belonging to the Bank. On 11-6-1983, he addressed a letter Exh. W-2 to the Regional Manager of the Western Region, requesting him to grant permission for installing an electric meter in his own name in the premises in his occupation. As the Bank's record did not indicate any permission sought for by Shri Ghayale or given to him for occupation of the said premises the Regional Manager by letter Exh. W-3 dated 26-7-1983, rejected the request and called upon the workman to remove himself and his belongings from the said premises within 7 days of receipt of the letter. This directive was repeated in the letter Exh. W-4 dated 8-2-1984, addressed by the Regional Manager to the workman, in reply to his letter dated 5-10-1983. The Regional Manager emphasised the fact that the workman's service conditions did not entitle him to residential accommodation being provided by the Bank. The workman however ignored this letter as he did the previous letters' dated 26-3-1983 and 19-9-1983, and hence the Regional Manager by letter Exh. W-5 dated 21-6-1985, brought to the notice of the workman that by wilfully disobeying the order directing him to vacate the Bank premises, he has committed an act of gross 'misconduct' in terms of clause 19.5(e) of the Bipartite Settlement and directed the workman finally to vacate the premises and deliver the keys to the Chief Manager of the Bombay Branch within 30 days and warned him that if he failed to do so, the Bank will proceed to take action for disobedience of the order. As the workman did not obey the direction the Deputy General Manager decided to hold an enquiry into the alleged misconduct and communicated this decision to the workman by letter Exh. W-6 dated 1-8-1985. The enquiry officer submitted his report on 17-2-1986 and on the basis of the said report the Deputy Regional Manager held the workman guilty of the charge levelled against him and by his letter Exh. W-8 dated April 11, 1986 called upon the workman to show cause against the proposed punishment of dismissal from service without notice. A personal hearing was given to the workman in respect of the proposed punishment and thereafter by order Exh. W-9 dated 21-12-1986, the Deputy Regional Manager as the disciplinary authority dismissed the workman from the Bank's service with immediate effect.

4. It is not disputed that the dismissal order was passed after a proper enquiry. Admittedly the workman disobeyed the order directing him to vacate the premises. The main question however is whether this amounts to misconduct and

whether the Bank was competent to institute the disciplinary proceedings in respect of the alleged misconduct.

5. There is no doubt, that the premises which were in the occupation of the workman belonged to the Bank. It is also crystal clear that the workman refused to vacate the premises in spite of repeated orders directing him to vacate the premises. But the record of the Bank itself shows that the workman came to occupy the premises in question before he was employed by the Bank. He was placed in possession of these premises when he was in personal service of the then Manager of the Bombay Branch during the period from July 1966 to March 1969. According to the Bank, the Manager had no authority to allot the premises to his personal servant. This position is not disputed. It is also an admitted position that when the workman came to be employed by the Bank the premises were not allotted to him as an incidence of his service. The service conditions by which the workman was governed did not contemplate provision of residential accommodation by the Bank. There is therefore no doubt that the workman was in unauthorised occupation of the premises and the Bank was within its rights to evict him. But that would not make the order directing the workman to vacate the premises a lawful order within the meaning of clause (c) of paragraph 19.5 of the Bipartite Settlement and would not empower the Bank to dismiss the workman for disobedience of that order.

6. By virtue of clause (c) of paragraph 19.5 wilful insubordination or disobedience of any lawful and reasonable order of the management or his superior amounts to gross misconduct for which an employee found guilty can be dismissed without notice. But the order to be lawful within the meaning of clause (c) must have nexus to the employment of the workman, and must be governed by the contract of his employment. As mentioned above, the occupation of the premises in question by the workman had absolutely nothing to do with his employment. He was not allotted the premises as an incidence of his service. As a matter of fact, when he came in possession of the said premises he was not in the service of the Bank and was a total stranger so far as the Bank was concerned even though he was inducted on the premises by the then Manager with whom he was working as his personal driver. Admittedly, when he was employed by the Bank, his possession was not regularised by making it a condition of his service. As a matter of fact, from the tenor of the reply dated 26-6-1983, it appears that the Bank was not even aware of the fact that the workman was in occupation of any premises belonging to the Bank. It may be that so far as the Bank was concerned, the occupation of the premises by the workman may be unauthorised and the Bank may be entitled to evict him. There was therefore nothing wrong in the Bank calling upon the workman to vacate the premises. But that did not make the order a lawful one within the meaning of clause (c) of paragraph 19.5 of the Bipartite Settlement. The workman was not bound to obey that order in his capacity as the employee of the Bank because the subject matter of the order had nothing to do with his employment with the Bank. It was certainly open to the Bank to take appropriate legal proceedings for evicting the workman treating him as a trespasser. But the disobedience of the order did not entitle the Bank to take disciplinary proceedings against the workman for misconduct within the meaning of clause (c) of paragraph 19.5 of Bipartite Settlement. The refusal to obey the order which does not properly relate to the character or capacity of the service for which the workman is employed does not constitute disobedience contemplated by clause (c) of paragraph 19.5 of the Bipartite Settlement.

7. Moreover, the order must not only be lawful but must also be reasonable. The order in question was neither lawful nor reasonable. The record of the Bank shows that the workman was in peaceful occupation of the premises for about 15 years. As mentioned above, the management was not even aware that the workman was occupying any premises belonging to the Bank. The management woke-up when the workman bonafide asked for permission of the Bank to get an electric meter installed in his name in the premises. It was then that the management discovered that the workman though

in the employment of the Bank was not inducted on the premises in any authorised manner. There is also nothing on record to show that the management required these premises for allotting it as an incidence of service to any other employee. The management therefore could have regularised the workman's possession of the premises and allotted them to him as an incidence of his service charging him occupation charges if any, as per rules. The long occupation of the premises by the workman would have justified such a course even assuming that the then Manager had no authority to allot premises to his personal servant. The fact of the matter is that he did so and the management condoned that unauthorised act may be because of ignorance about it. Under the circumstances, therefore, the order cannot be considered as reasonable and on that ground also the workman was justified, with impunity, to ignore the order. There was thus no basis for charge sheeting the workman. The disciplinary proceedings themselves were completely mis-conceived and the order of dismissal was not only unjustified but illegal also. The order is therefore, set aside and the workman is reinstated in service forthwith with full back wages from the date of dismissal till his actual reinstatement. Award accordingly.

M. S. JAMDAR, Presiding Officer

N. K. VERMA, Desk Officer

[No. I-12012/416/86-D.II(A)]

नई दिल्ली, 21 मई, 1989

का.प्र. 1445.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स ईस्टर्न कोल फील्ड्स लिमिटेड की यजना कोलियरी के प्रबंधन से सम्बन्धित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (मं. 1), धनबाद के पंचाट को प्रकाशित करती है।

New Delhi, the 24th May, 1989

S.O. 1445.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the Management of Badjna Colliery of M/s. Eastern Coalfields Ltd. and their workmen.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Sec. 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 129 of 1988

PARTIES :

Employers in relation to the Management of Badjna Colliery of M/s. Eastern Coalfields Ltd., P.O. Nirshachatti, Dist. Dhanbad.

AND

Their workmen

APPEARANCES :

For Employers—Sri B. N. Prasad, Advocate

For Workmen—None.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 13th April, 1988

AWARD

By Order No. I-20012/54/88-D-3(A) dated 30-9-88, the Central Government being of opinion that an industrial dispute existing between the employers in relation to the management of Badjna Colliery of M/s. Eastern Coalfields Ltd., and

their workmen in respect of the matter specified in the schedule attached to the order, referred the dispute to this Tribunal for adjudication. The schedule to the reference reads thus :

"Whether the action of the management of Badlha Colliery of Nirsa Area of M/s. Eastern Coalfields Limited, Post Nirsa Chatti, Dist. Dhanbad in superannuating Smt. Sarla Bourin, Kamala Bourin and Taramoni Mochi, OBR worker from 26-8-87 is justified. If not, to what relief are these workmen entitled?"

2. It appears from the schedule of the terms of reference that the management of Badlha Colliery of Nirsa Area of M/s. Eastern Coalfields Limited, P.O. Nirsha Chatti, Dist. Dhanbad superannuated S/Smt. Sarla Bourin, Kamala Bourin and Taramoni Mochi, OBR workers from service with effect from 26-8-87. The President, Janta Mazdoor Sangh, Regional Committee, Nirsha Chatti raised industrial dispute over the superannuation of these three female workers. The appropriate Government, after being satisfied, was pleased to refer the dispute for adjudication before this Tribunal.

3. The Order of Reference was received in this Tribunal on 7-10-88 and next date was fixed on 15-12-88 for steps. Since none of the parties arrayed appeared notice was issued to the President of the sponsoring union directing him to appear before this Tribunal on 4-1-89. Sri B. N. Sharma appeared for the workers on the date fixed but without any letter of authority. No one appeared for the management. On the verbal prayer of Sri Sharma the case was adjourned to 2-2-89 for filing written statement by the workers. On 2-2-89 Sri Sharma appeared for the workers but did not file the letter of authority. On the employer side Sri B. N. Prasad, Advocate appeared, but he too without any letter of authority. Again on the verbal prayer of Sri Sharma the next date for filing written statement was fixed on 1-3-89. On the date fixed Sri B. N. Sharma appeared for the workers and Sri B. N. Prasad, Advocate for the management, but none of them was having any letter of authority. On the verbal prayer of Sri Sharma the case was adjourned to 5-4-89 for filing written statement by the workers. On the date fixed Sri B. N. Prasad, Advocate appeared for the management with a letter of authority, but none appeared for the concerned workers.

4. In the circumstances, I have reason to believe that neither the union nor the concerned workers are interested in proceeding with the present Reference. Hence this Tribunal has got no other alternative than to pass a 'no dispute award' and accordingly I do so.

This is my Award.

S. K. MITRA, Presiding Officer

[No. L-20012(54)/88-D.III(A)/IR(Coal.-I)]

अ. प्रा. १४४६.—औद्योगिक विवाद अधिनियम, १९४७ (१९४७ का १४) की धारा १७ के अन्तर्गत में, केन्द्रीय सरकार, संसद भारत कोकिंग कोल लिमिटेड की मूरलीदीह कोलियरी के प्रबंधन से सम्बद्ध नियोजकों और अन्य कर्मचारों के बीच, प्रमुख में विद्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. २), धनबाद के पचाह को प्रकाशित करती है, जो केन्द्रीय सरकार को ३-५-१९८९ को प्राप्त हुआ था।

S.O. 1446.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2) Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the Management of Murlidih Colliery of M/s. Bharat Coking Coal Ltd. and their workmen.

1542 GI/89—5

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 179 of 1988

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

PARTIES :

Employers in relation to the management of Murlidih Colliery of Messers Bharat Coking Coal Limited.

AND

Their work men.

APPEARANCES :

On behalf of the workmen—Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

On behalf of the employers—Shri R. S. Murthy, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 27th April, 1989

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/326/85-D. III(A), dated the 1st May, 1986.

SCHEDULE

"Whether the action of the management of Murlidih Colliery of M/s. Bharat Coking Coal Limited, Post Mohuda, District Dhanbad in not referring Shri Guhi Gope Assistant Gomasta to the Medical Board for determining his age and superannuating him from service with effect from 10th July, 1985 is justified? If not, to what relief the workman is entitled?"

The case of the workmen is that the concerned workman Shri Guhi Gope was working as Assistant Gomasta in Murlidih Colliery of M/s. B.C.C.L. Since the time of his erstwhile employers. During the time of erstwhile employer an identity card was issued to the concerned workman showing his date of birth as 1927. The entries in identity card are made on the basis of the particulars entered in Form B Register. In spite of the fact that his date of birth was 1927, the management issued him a letter proposing to superannuate him with effect from 26th December, 1985. The union of the workmen raised an industrial dispute on 15th July, 1985 against the proposed superannuation of the concerned workman. Although he was proposed to be superannuated with effect from 26th December, 1985 curiously enough he was superannuated with effect from 10th July, 1985. The ALC(C) started conciliation proceeding which ended in failure and thereafter the present reference was made to this Tribunal for adjudication. According to the workmen the action of the management in superannuating the concerned workman with effect from 10th July, 1985 was illegal arbitrary and against the entry of his age in the identity card issued by the management. The action of the management in superannuating the concerned workman was against the entries in the statutory register maintained by the management. The management retired the concerned workman without referring him to the Medical Board for determination of his age. It is submitted that the management should be directed to accept the date of birth of the concerned workman as 1927 as shown in his identity card and in the alternative to refer the concerned workman to the medical board for determination of his age. It is proved that the concerned workman be reinstated with full back wages with effect from 10th July, 1985 and should be superannuated in 1987.

The case of the management is that the dispute originally raised by the sponsoring union before the ALCC (Dhanbad) by its letter dated 15th July, 1985 was entirely different from what has been referred for adjudication to this Tribunal. The Murlidih colliery previously belonged to Kalyanji Mavji and Co. It was nationalised under the Coking Coal Mines (Nationalisation) Act, 1972 with effect from 1st May, 1972 and it became a part of BCCL. Its ownership vested in BCCL by the Central Government. The concerned workman was employed in the said colliery with effect from 12th May, 1947 and he became an employee of BCCL with effect from 1st May, 1972 after nationalisation of the colliery. The age of superannuation of the employee of BCCL is 60 years. The previous owner of the colliery namely M/s. Kalyanji Mavji and Co. had maintained the Form B Register as required under the Mines Act and Mines rules and the same was handed over to BCCL by the previous owner along with the colliery. The said Form B Register bears the stamp of M/s. Kalyanji Mavji Co. The entries in the said Form B Register shows the age of the concerned workman as 48 years in 1971. The concerned workman had duly attested the entries in Form B Register by affixing his LTI. He had attained the age of 60 years long ago. After nationalisation of the colliery the management of BCCL issued identity cards to all the workers and for that purpose an identity card register was also maintained indicating the particulars including the name, age/date of birth etc. of each workman. The entries in the identity card register was duly attested by the workman concerned by affixing LTI or signature. In the identity card register prepared by the management of BCCL the date of birth of the concerned workman was shown as 21st April, 1923 and on this basis he should have been superannuated with effect from 21st April, 1983. The entries in the identity card register was attested by the concerned workman by affixing his LTI. The identity card issued to the concerned workman contains the particulars entered in the identity card register and the said identity card was handed over to the concerned workman. The concerned workman was not superannuated with effect from 21st April, 1983 due to lapse on the part of the officers of the management. When the matter came to the notice of the Superintendent/Agent, Murlidih colliery he issued a letter dated 27th June, 1985 to the concerned workman intimating him that he would be superannuated with effect from 26th December, 1985. The said letter was issued under misconception of law and fact. A copy of the said letter dated 27th June, 1985 of the Supdt./Agent, Murlidih Colliery was endorsed to the General Manager Mohada Area under which Murlidih Colliery falls. The General Manager is the superior officer of the Supdt./Agent of Murlidih colliery. After examining the case the General Manager, Mohada area informed the concerned workman vide letter dated 8/9th July, 1985 that letter dated 27th June, 1985 of the Superintendent Murlidih colliery stands cancelled and that the concerned workman would be superannuated with effect from 10th July, 1985. The said letter of the General Manager was sent to the concerned workman by registered post with an extra copy under certificate of posting. It is well settled that the management is entitled to correct or rectify any errors or mistake committed by the lower functionaries of the colliery. When the dispute was raised by the sponsoring union it was their case that the concerned workman should have been superannuated on the basis of entries in Form B Register maintained by the erstwhile owner of the colliery. The concerned workman enjoyed the benefit of being in the service of the management much longer than he was entitled to be in service even as per the entries in Form B Register and as such there was no question of referring his case in the medical board. The demand of the union for referring the case of the concerned workman to the Medical Board is baseless. The action of the management is not referring the case of the concerned workman to the Medical Board for determining of his age and in superannuating him from the service with effect from 10th July, 1985 is fully justified and the concerned workman is not entitled to any relief.

The points for determination are :—

- (1) Whether the concerned workman was superannuated with effect from 10th July, 1985 after he had already completed 60 years of age ?
- (2) Whether the management was justified in not referring the concerned workman to the Medical Board for determining his age ?

The management examined one witness. The workman declined to examine any witness. The documents of the management are marked Ext. M-1 to M-4 and the documents of the workman are marked Ext. W-1.

Point No. 1

MW-1 Shri Asgar Ali Ansari, a Bill Clerk of Murlidih colliery, has been examined on behalf of the management. He has stated that Murlidih colliery was being run by Kalyanji Mavji Co. at the time of take over. He has proved Form B Register of time rated workmen of Murlidih colliery. Ext. M-3 is the photo copy of relevant page in Form B Register and the relevant portion of identity card register is marked Ext. M-4 in this case. It will appear that from the ordersheet dated 11th April, 1988, the day on which MW-1 was examined, that the original Form B Register Ext. M-3 and the original identity card register Ext. M-4 were filed by the management in the Court and that they were returned back to the management after substituting the photo copy of the relevant pages. A note to that effect has been made in the ordersheet dated 11th April, 1985 and in the remarks column of the list of documents. Thus it is not the case that the original Form B Register Ext. M-3 and original identity card register Ext. M-4 had not been filed before the Tribunal by the management. On reference to Ext. M-3 it will appear that the age of the concerned workman noted in column No. 4 is 48 years and in the 9th column there is LTI with note LTI of Guhi Gope. MW-1 has stated that Form B Register was written by Shri Puran Chandra Das who is dead. He has further stated that Form B Register was prepared in 1971 by the erstwhile management and thus from the entries in Ext. M-3 and from the evidence of MW-1 it will appear that the age of the concerned workman was 48 years in 1971 i.e. to say he was born in 1923. Ext. M-4 is the identity card register of time rated workers of Murlidih colliery. This entry also was made by later Shri Puran Chandra Das. In the relevant entry Ext. M-4 the date of birth of the concerned workman has been shown as 21st April, 1923. Thus the identity card register also shows the year of birth as 1923 but it is more specific about the date of birth of the concerned workman as 21st April, 1923. The said entry was not made by BCCL and there is nothing to show that the date of birth of the concerned workman was entered as 21st April, 1927 in Ext. M-4. The ink of "3" in 1923 in Ext. M-4 is no doubt somewhat deep but it does not denote that "3" has been overwritten on "7". Moreover the year of birth of the concerned workman as 1923 corresponds to the age of the concerned workman stated as 48 years in Ext. M-3. The workmen have filed Ext. W-1 MW-1 has stated that Ext. W-1 is written by Shri Satya Babu, P. F. Clerk. It appears one page bearing the LTI purported to be of Guhi Kope is inserted in the Bonus Card and the said page is not signed by any officer of the colliery. The year of birth of the concerned workman is noted as 1927. The particulars of the identity card are entered on the basis of the particulars of the identity card register and the particulars of the identity card register is entered on the basis of the Form B Register. The management has filed the identity card register Ext. M-4 of the erstwhile management and the Form B Register Ext. M-3 of the erstwhile management. Neither of those exhibits M-3 and M-4 show the year of birth of the concerned workman as 1927. As such the entries of the year of birth of the concerned workman shown as 1927 in Ext. W-1 is neither based on the entries of the date of birth/year of birth as mentioned in Form B Register and identity card register. The fact that the page bearing the entry 1927 does not bear the signature of any officer of the management shows that it is a fake document and no reliance can be placed on such document. In fact reliance on such document will encourage forgery and fabrication of such documents. The concerned workman has not turned up to say on oath about his date of birth/age. In view of the fact there does not appear to be any appreciable error in the age/date of birth of the concerned workman in Ext. M-3 and M-4. I hold that the date of birth of the concerned workman noted as 21-4-23 in Ext. M-4 and his age as 48 years in 1971 in Ext. M-3 are correct. In accordance with the entry of the age/date of birth of the concerned workman in Ext. M-3 and M-4 his year of superannuation was 1983 but admittedly he was superannuated not in 1983 and was superannuated with effect from 10-7-85. It is clear therefore that the concerned workman has been superannuated.

nnuated long after he had completed 60 years of age. I hold that the concerned workman was superannuated with effect from 10-7-85 long after he had already completed 60 years of age.

Point No. 2

It has been argued on behalf of the workmen that as there is difference of age/date of birth of the concerned workman in Form B Register and identity card register, the concerned workman should be sent to the Medical Board for determination of his age. MW-1 no doubt has stated that there is a provision in the BCCL that if there is a difference of age/date of birth of the workman in Form B Register and identity card register, the said workman is to be sent to the Medical Board for the assessment of his age. The usual principle is that if there is variation in the statutory registers of the management regarding age of workman, the workman should be sent to the medical Board for determination of his age. Form B Register is a statutory register but identity card register is not a statutory register having any independent stand. As stated above the particulars in identity card register are made on the basis of the particulars entered in Form B Register and as such it has no independent statutory standing. Moreover, there is actually not much of difference of age/date of birth of the concerned workman in those two registers. No other statutory document has been filed in this case to show the different age/date of birth than Form B Register. It will also appear that the concerned workman already got advantage of about 2 years in his superannuation and I see no case so as to refer the concerned workman to the Medical Board for determination of his age in the year 1989. Accordingly I hold that the management was justified in not referring the concerned workman to the Medical Board for determination of his age.

In the result, I hold that the action of the management of Murulidih colliery of M/s. BCCL in not referring the concerned workman Shri Guhi Gope, Asstt. Gomasta to the Medical Board for determining his age and superannuating him from service with effect from 10-7-1985 is justified and consequently the concerned workman is entitled to no relief.

This is my Award.

I. N. SINHA, Presiding Officer.

[No. L-20012(326)/85-D.III(A)/IR(Coal-I)]

K. J. DYVA PRASAD, Desk Officer.

नई दिल्ली 12 जून 1989

का. आ. 1447— औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत कोलिज कोल वि० की भोवरा क्षेत्र सं० 11 की अमलाबाद कोलियरी के प्रबंध सत्र के सम्बन्ध नियोजकों और उनके कर्मचारों, के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं 2) धनबाद के विवाद को प्रकाशित करती है जो केन्द्रीय सरकार को 31-5-1989 को प्राप्त हुआ था।

New Delhi, the 12th June, 1989

S.O. 1447.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Govt. hereby publish the award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Amlabad Colliery Bhowra Area No. XI of M/s. BCCL and their workmen, which was received by the Central Government on the 31-5-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD
Reference No. 176 of 1987

In the matter of an industrial dispute under section 10(1)(d) of the I.D. Act, 1947.

PARTIES :

Employers in relation to the management of Amlabad Colliery Bhowra Area No. XI of M/s. BCCL and their workmen.

APPEARANCES :

On behalf of the workman—Shri B. C. Mukherjee, Advocate.

On behalf of the employers—Shri B. N. Prasad, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 24th May, 1989

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(180)/86-D.IV(B), dated, the 1st July, 1987.

SCHEDULE

"Whether the action of the management of Amlabad Colliery of Bhowra Area No. XI of M/s., BCCL, Dhanbad in not regularising Shri Kailash Rajwar, CCM Driver in Cat. VI is justified. If not, to what relief the workman is entitled?"

The case of the workmen is that the concerned workman Shri Kailash Rajwar is a permanent workman employed as CCM driver at Amlabad Colliery of Bhowra Area No. XI, of M/s. BCCL. He has been working as CCM Driver for the last 10 years. He had initially been placed in the wage scale of Cat. V as per the recommendation of the NCWA-I and II. After coming in force of NCWA-III the concerned workman is covered by NCWA-III. As per the cadre scheme/promotion rules formulated by NCWA III for E&M discipline, CCM drivers with 3 years experience in Cat. V are eligible for promotion of Cat. VI. The norms for promotion of CCM Driver from Cat. V to Cat VI for E&M discipline is stated in Annexure-VII-8 of the Implementation instruction No. 30 of 1984 dated 26-6-84 of the JBCCI. The recommendation of NCWAs are binding on the management as well as the workmen. Amlabad Colliery is a gassy mine and because of the above difficulty in the working condition of the said mine at the CCM Driver employed in the said mine have been allowed the wages of Cat. VI since before 1-1-83. The case of the concerned workman was left out in the matter of his placement in Cat. VI along with other CCM Drivers posted in the mine of Amlabad Col-

liery placed in the same circumstances. The management incomplete disregard of the implementation instruction of the JBCCI singled out the case of the concerned workman and did not place him in Cat. VI. The concerned workman and his union namely Bihar Coal Miners Union, Digwadih made several representations before the management for upgradation/regularisation of the concerned workman from Cat. V to Cat. VI as already allowed to the other CCM drivers of Amlabad Colliery but the management did not pay any heed. Thereafter the union of the workmen raised an industrial dispute before the ALC(C), Dhanbad. The ALC(C) took up the matter in conciliation which ended in failure. On receipt of the failure report, the Govt. of India, Ministry of Labour referred the present dispute to this Tribunal for adjudication. On the above facts it is prayed that the concerned workman be placed/regularised as CCM Driver in Cat. VI with effect from 1-1-83 with back wages and other benefits.

The case of the management is that the concerned workman was appointed at Amlabad Colliery on 1-10-52. He became a CCM Driver in Cat. V, on 1-6-79. There are 9 CCM drivers at Amlabad Colliery including the concerned workman. Out of them 2 CCM drivers are in Cat. VI and the remaining 7 CCM drivers including the concerned workmen are in Cat. V. 2 CCM drivers, namely, Shri Meghu Barhi and Shri Narain Singh who are in Cat. VI came on transfer from Jealgora Colliery sometime in the year 1979. At the time of their transfer to Amlabad Colliery they were already in Cat. VI. The management of Amlabad Colliery has not promoted any CCM Driver from Cat. V to Cat. VI. The demand of the workman to regularise the concerned workmen in Cat. VI has no basis and in fact in the garb of regularisation the claim virtually is for promotion from Cat. V to Cat. VI promotion is a managerial function and it can not be claimed as a matter of right. The union is aware of the principle of law and it is trying to mislead and misrepresent the fact with the sole intention of securing promotion in the name of regulation of the concerned, workman. Promotion depends upon the eligibility, seniority and suitability of departmental candidates to be adjusted by a departmental promotion committee subject to availability of post in the higher category. No individual employee can be considered for promotion in isolation by ignoring the claim of other eligible departmental candidate. At Amlabad Colliery there is no sanctioned post of Cat. VI CCM Driver against which the concerned workman's claim can be considered. The promotion of CCM driver from Cat. V to Cat. VI warrants creation of additional posts in the higher Cat. VI. The creation of post depends upon the needs of the management and on other factors. There is no special reason as to why out of the 7 Cat. V CCM driver the concerned workman alone should be promoted/regularised in Cat. VI. The promotion/regularisation of the concerned workman alone without considering the case of other category V CCM driver would amount to discrimination against the other Cat. V CCM drivers.

The JBCCI has laid down the eligibility norms for promotion of Cat. V CCM driver to Cat. VI. It does not lay down any condition for time bound promotion of CCM driver. It is not proper to think that

every employee should be promoted to the next higher grade/category as soon as he completes experience of certain years of service in any particular grad/category. The job description of Cat. V and Cat. VI CCM driver are identical being "A manual worker who is incharge of and operates a coal Cutting machine". The JBCCI has not decided the stating pattern of post which should be operated in Cat. V and Cat. VI. As per the Coal Mines Regulation 1957 clause 186(2)—In a gassy mine of second or third degree "no person shall be appointed to supervise or operate any electrical machinery apparatus or appliances other than a telephone or signalling device or electrical lamp or light unless he holds a gas testing certificate. The concerned workman does not possess gas testing certificates as required under Coal Mines Regulation, 1957. The problem of promotion of CCM drivers from Cat. V to Cat. VI is industry-wide issue and it is not unique to Amlabad Colliery. Unless a rational and uniform criteria is evolved and a policy laid down about the operation of posts in the lower and higher categories of the CCM Drivers, the concerned workman's case alone cannot be decided at the unit level. If he is promoted/categorised in isolation it will not only cause grievance to the other Cat. V CCM drivers of the colliery but will also lead to a very serious reparcussion in the other collieries of BCCL and the coal industry as a whole. On the above facts it is submitted on behalf of the management that the concerned workman is not entitled to any relief and that the reference be answered in favour of the management.

The point for consideration is whether the concerned workman can be regularised as CCM Driver in Cat. VI from 1-1-83.

The management examined three witnesses in support of its case. The workmen did not examine any witness in their support. The documents of the management are marked Ext. M-1 to M-31 and no document has been exhibited on behalf of the workmen.

Admittedly, the concerned workman is working as CCM driver in Cat. V since 1-6-79. MW-3 was working as Sr. P.O. at Amlabad Colliery from 16-11-82 to 15-11-88. He has stated that the demand of the workmen was for promotion of the concerned workman from Cat. V to Cat. VI. He has stated that experience of 3 years in Cat. V was necessary for promotion to Cat. VI. He has also stated that the job description of CCM driver of Cat. V and Cat. VI is the same which is continuing from LAT Award. He has further stated that no norm is laid as to who will be promoted from Cat. V to Cat. VI and that as no norm has been fixed it is not possible to promote CCM drivers from Cat. V to Cat. VI. He has further stated that there was no sanctioned post of CCM driver of Cat. VI in Amlabad Colliery. He has stated that the concerned workman has not been superseded by any workman and that the promotion of the concerned workman to Cat. VI will lead to the question of promotion of other CCM driver of Cat. V to Cat. VI. In cross-examination he has stated that any decision taken by the JBCCI is

binding on the employers. He has stated that the eligibility for promotion from Cat. V to Cat. VI is provided in JBCCI circular. Ext. M-1 is the NCWA-III Implementation Instruction No. 30 dated 26-6-84. Clause 3 of Ext. M-1 deals with promotional channel for E&M discipline employees. Clause 3.1 provides that the promotional channel for various categories of E & M discipline shall be as per annexures hereto. The said annexures only indicate the qualification and experience to be possessed by the departmental candidates included in the cadre from time to time for the purpose of eligibility for selection/promotion of candidates as specified in this scheme. Clause 3.2 provides that selection for the post upto Cat. V shall be on the basis of seniority-cum-merit and from Cat. V to Cat. VI on the basis of merit-cum-seniority. Clause 3.3 provides that the promotional zone for filling the vacancy in Cat. I to Cat. VI will be unit/project. Clause IV provides that selection/promotion of candidates for filling vacancies in higher categories shall be made on the recommendation of the D.P.C. to be constituted by the competent authority or any other officer who may be delegated with such power by him from time to time. The decision of the competent authority on such recommendation shall be final. Annexure-VIII-8 provides promotional channel of E&M personnel which includes CCM crew and drillers (other than excavation and exploration). It will appear from the said annexure that for promotion to CCM driver grade-I having a scale of pay of Cat. VI the minimum educational qualification is literate and he must have 3 years experience as CCM drivers Grade-II in Cat. V and the mode of promotion has been left blank in the said schedule. NCWA-III Implementation instruction including the cadre scheme issued by the JBCCI has been complied which contains all the implementation instruction of JBCCI. The Implementation Instruction No. 53 dealing with cadre scheme/promotional rule for E&M discipline employees refers to the Implementation Instruction No. 30 dated 26-6-84. It is stated in the Implementation Instruction No. 53 that in the 19th meeting of the promotion policy committee at III JBCCI held on 15th and 16th October, 1985, certain errors/omission noticed/pointed out in the cadre schemes of E & M discipline employees circulated earlier under Implementation Instruction No. 30 dated 26-6-84 were discussed and it was decided to rectify the same as under:—

- (ii) Annexure-VIII-8, General Mazdoor to CCM Driver Gr. I.—In the column "Mode of promotion" against Sl. No. 4 CCM Driver Gr. II and Sl. No. 5 CCM Driver Gr. I, the word DPC shall be added.

The new annexure as amended in Annexure-VII-8 is at page 144 of NCWA-III Implementation Instruction including cadre schemes. In view of the amendment made in the mode of promotion in Annexure-VII-8 vide Implementation Instruction No. 53 of JBCCI now the mode of promotion of 1542 GI/89—6

CCM driver Cat. V to CCM Driver Cat. VI has to be made through D.P.C. It will appear from para-6 of the W. S. of the workman themselves that they accept the implementation instruction No. 30/84 of the JBCCI as such promotion from CCM driver Cat. V to CCM driver Cat. VI can be made through D.P.C. alone. Admittedly no DPC has been held for promotion of CCM drivers of Cat. V to Cat. VI and the matter of promotion is to be considered by the management and the said power of promotion by the Management cannot be usurped by this Tribunal for promoting the concerned workman from Cat. V to Cat. VI. The promotional channel of the Mechanical discipline as stated in the annexures only indicate the qualification and experience to be possessed by the departmental candidates and the promotion to the higher category VI is not automatic on completing the years of service and it is only the eligibility which has been fixed which makes him suitable for being considered for promotion to the higher category. The D.P.C. has to consider the promotional zone unitwise or project-wise and there is no material before this Tribunal as to who are the other eligible candidates who fulfill the criteria for promotion from Cat. V to CCM driver Cat. VI. The case of promotion of the concerned workman has to be considered by the D.P.C. as laid down in the cadre scheme and this Tribunal cannot consider about the case of promotion of the concerned workman alone in the absence of other eligible CCM drivers of Cat. V whose case also needs consideration for promotion to CCM driver Cat. VI.

It is submitted on behalf of the workman that the concerned workman is not claiming promotion but is claiming regularisation in Cat. VI. Admittedly the job description of CCM drivers of Cat. V and Cat. VI is the same and the job description of both is "A manual worker who is incharge of and operates a coal cutting machine". Admittedly the concerned workman till now is in the scale of pay of Cat. V as CCM driver. There is no order of the management regarding the fact that the concerned workman was allowed to work in the scale of pay of Cat. VI in Gr-I CCM Driver. He is a CCM driver in Grade-II. Unless there is any order of the management that the concerned workman working as CCM driver in Grade-II was allowed to work as CCM driver Grade I, it cannot be said that the concerned workman was working as CCM driver Grade-I and as such he should be regularised as CCM driver Grade-I and should be allowed the scale of pay of Category VI. Only because the job description of Cat. V and Cat. VI CCM driver is the same it cannot be said that after the concerned workman completed 3 years experience as CCM driver Grade-II in Cat. V he automatically becomes CCM driver Grade-I. Promotional channel of E&M personnel clearly shows that the promotion from CCM driver Grade-II in Cat. V to CCM Driver Grade-I in Cat. VI can be made through D.P.C. alone. In view of the fact that neither there is any order of the management to the effect that the concerned workman was asked

to work as CCM driver Grade-I nor any D.P.C. was held recommending the promotion of the concerned workman from CCM driver Gr-II to CCM driver Grade-I, I hold that the concerned workman is neither entitled to be regularised as CCM Driver Grade-I in Cat. VI nor he is entitled to be promoted as CCM driver Grade-I in Cat. VI as his case has not been considered for promotion by the D.P.C.

One other point remains to be discussed. From the evidence of MW-3. It appears that out of 9 CCM drivers working in Amlabad Colliery 2 of them, namely, Shri Meghu Barhi and Narain Singh are in Cat. VI and that they were placed in Cat. VI in Jealgora Colliery since before their transfer to Amlabad Colliery in 1979. The case of the management is that the other 7 CCM drivers of Amlabad Colliery are in Cat. V. MW-3 further stated that the concerned workman has not been superseded by any workman and as such the concerned workman could not have any grievance on the ground of any discrimination by the management. It appears that Amlabad Colliery did not promote any CCM driver from Cat. V to Cat. VI. MW-3 has stated that there is no sanctioned post of CCM driver of Cat. VI of Amlabad Colliery. If there is no sanctioned post of Cat. VI in Amlabad Colliery there could be no promotion from Cat. V to Cat. VI. The management of the colliery has first to sanction the post of Cat. VI of CCM Driver and then alone the case of promotion of CCM driver of Cat V can be considered for the post of CCM driver in Cat. VI. The function of creating the post in the higher category and also the person who are to be promoted in the higher category lies in the hands of the management and the Tribunal cannot direct the management for the same in this reference. MW-1 and MW-2 are almost formal witnesses who have proved the LPCs Ext. W-3 and W-3/1 of Shri Narain Singh and Meghu Barhi respectively to show that they were already CCM driver in Cat. VI before their transfer to Amlabad Colliery.

In the result, I hold that the action of the management of Amlabad Colliery of Bhowra Area No. XI of M/s. BCCU in not regularising the concerned workman Shri Kailash Rajwar as CCM driver in Cat. VI is justified and consequently the concerned workman is entitled to no relief.

This is my Award.

Sd/-

I. N. SINHA, Presiding Officer,

[No. I-24012/180/86-D.IV(B)]/R(Coal-I)]

K. J. DYVAPRASAD, Desk Officer

नई दिल्ली 15 मई, 1989

का. धा. 1448— केन्द्रीय सरकार ने यह समाधान हो जाने पर कि, लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vi) के उपखंडों के अनुसरण में, भारत सरकार के धर्म संहा-लय की अधिसूचना संख्या का० धा० 3673 दिनांक 7 दिसम्बर, 1988 द्वारा किसी भी लेव क्षेत्र में सेवा को उक्त अधिनियम के प्रयोजनों के लिए 7 दिसम्बर, 1988 से छह मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था ;

और केन्द्रीय सरकार को यह है कि लोकहित में उक्त कालावधि को छह मास की और कालावधि के लिए बढ़ाया गया अपेक्षित है ;

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vi) के उपखंड द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधि-नियम के प्रयोजनों के लिए 7 जून, 1989 से छह मास की और काला-वाध के लिए लोक उपयोगी सेवा घोषित करती है।

[सं. एम-11017/5/85-डी-1 (ए)]

New Delhi, the 15th May, 1989

S.O. 1448.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provision of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 3673 dated the 7th December, 1988 the service in any oilfield to be a public utility service for the purposes of the said Act, for a period of six months from the 7th December, 1988 ;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 7th June, 1989.

[No. S-11017/5/85-D.I(A)]

नई दिल्ली, 24 मई, 1989

का. धा. 1449.—केन्द्रीय सरकार का समाधान हो गया है कि लोकहित में ऐसा अपेक्षित है कि जिन खनन उद्योग में सेवाओं को, जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 15 के अन्तर्गत निदिष्ट किया गया है, उक्त अधि-नियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (इ) के उपखंड (vii) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छ मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या एम-11017/9/85-डी-1 (ए) (i)]

New Delhi, the 24th May, 1989

S.O. 1449.—Whereas the Central Government is satisfied that the public interest requires that the Zinc Mining Industry, which is covered by item 15 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[No. S-11017/9/85 D.I(A) (i)]

का.आ. 1450.—केन्द्रीय सरकार का समाधान हो गया है कि लोकहित में ऐसा करना अधोचित है कि सीमा खनन उद्योग को, जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 14 के अन्तर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवा घोषित किया जाना चाहिए;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (क) के उपखण्ड (vi) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव में छ. मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या एम-11017/9/85 डी.1 (ए) (ii)]

नन्द लाल, अवर सचिव

S.O. 1450.—Whereas the Central Government is satisfied that the public interest requires that the Lead Mining Industry, which is covered by item 14 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a public utility service for the purposes of the said Act.

Now, therefore, in exercise of the powers conferred by sub-clause (vi) of clause (ii) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares with immediate effect the said industry to be a public utility service for the purposes of the said Act for a period of six months.

[No. S-11017/9/85-D.1(A)(ii)]

NAND LAI., Under Secy.

नई दिल्ली, 23 मई, 1989

का.आ. 1451.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1-6-89 को उस तारीख के रूप में नियत करती है, जिसका उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के विषय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 [धारा 76 की उपधारा (1) और धारा 77, 78, 79 और 81 के विषय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध तमिलनाडु राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे, अर्थात् :—

नोरपुर "जिला कोयंबटूर के पालाडूम तालुका में राजस्व ग्राम वीरपान्डी (नं. 24 वीरपान्डी) के अन्तर्गत आने वाले क्षेत्र।"

हंसुर के ग्रामश "जिला धरमापुरी के हंसूर तालुका में राजस्व ग्राम मारानापल्ली के अन्तर्गत आने वाले क्षेत्र।"

[सं. एम 38013/10/89-एम.एम-1]

New Delhi, the 23rd May, 1989

S.O. 1451.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 1st June, 1989 as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already brought into force) and Chapters V and VI [except sub-section (1) of section 76 and 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of Tamil Nadu namely :—

Veerapur.—The area comprising revenue village of Veerapuram (No. 24 Veera Pandi) in Palladam Taluk in Coimbatore District.

Hosur Suburbs.—The area comprising revenue village of Moranapalli in Hosur Taluk in Dharmapuri District.

[No. S-38013/10/89-SS.1]

नई दिल्ली, 21 मई, 1989

का.आ. 1452.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91क के साथ पठित धारा 88 द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम प्रवर्धन से मिसर्स वि ब्रिटिश इंडिया कारपोरेशन लिमिटेड, कानपुर में नियुक्त नियमित कर्मचारियों को 1-1-89 से 31-12-89 तक जिसमें बिना भी सम्मिलित है, अवधि के लिए छुट प्रदान करती है का यः

2. पूर्वानुवृत्त छुट की गते निम्नलिखित है, अर्थात् :—

(1) पूर्वानुवृत्त कारखाना, जिसमें कर्मचारी नियोजित है, एक रजिस्टर रखेगा, जिसमें छुट प्राप्त कर्मचारियों के नाम और पदाभिधान दिखाए जायेंगे;

(2) इस छुट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रगतिवाण प्राप्त करने रखेंगे, जिनका पाने के लिए वे हम अधिसूचना द्वारा दी गई छुट के प्रवृत्त होने की तारीख से पूर्व मन्दत अभिदाओं के आधार पर हकदार हो जाते;

(3) छुट प्राप्त अवधि के लिए यदि कोई अभिदाय पहले ही किए जा चुके हो तो वे वापस नहीं किए जायेंगे;

(4) उक्त कारखाने का नियोजक, उस अवधि की वास्तव शिफ्टों के दौरान उस कारखाने पर उक्त अधिनियम प्रवर्तमान था (जिसे हमें हमके पश्चात "उक्त अवधि" कहा गया है), ऐसी विवरणियां ऐसे प्रारूप में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उसे उक्त अवधि की वास्तव देखी थी,

(5) निम्न द्वारा उक्त अधिनियम की धारा 43 की उपधारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक, या निगम का इस निमित्त प्राधिकृत कोई अन्य पदधारी :—

(i) धारा 44 की उप धारा (1) के अधीन, उक्त अवधि की वास्तव से गई किंगों विवरणों की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ ;

(ii) यह अभिनियमित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा यथा अपेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे य

(iii) यह अभिनियमित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन फायदा को, जिसके प्रतिकूल स्थाप्य हम अधिसूचना के अधीन छुट दी जा रही है, नुकद में और धन्यता में पाव का हकदार बना हुआ है या नहीं; या

(iv) यह अभिनियमित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबन्ध प्रयुक्त थे ऐसे किसी उपबन्धों का अनुपालन किया गया था, या नहीं;

निम्नलिखित कार्य करने के लिए सशक्त होगा :—

(क) प्रधान या अवबर्हित नियोजक से अपेक्षा करने कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी मान्यता प्राप्त है।

(ख) ऐसे प्रधान या अव्यवहित नियोजक के अधिभोगाधीन किसी कारखाने स्थापन, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरी के संदाय से संबंधित ऐसे लेखा, बहियाँ और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारियों के समक्ष प्रस्तुत करे और उनकी परीक्षा करने दे, या उन्हें ऐसी जानकारी दे, जिसे वे आवश्यक समझते हैं; या

(ग) प्रधान या अव्यवहित नियोजक की, उसके अधिकर्ता या सेवक की, या ऐसे किसी व्यक्ति की जो ऐसे कारखाने, स्थापन, कार्यालय या अन्य परिसर में पाया जाए, या ऐसे किसी व्यक्ति की जिसके बारे में उक्त निरीक्षक या अन्य पदधारी के पास वह विश्वास करने का युक्तियुक्त कारण है कि वह कर्मचारी है, परीक्षा करना; या

(घ) ऐसे कारखाने, स्थापन, कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखाबही या अन्य दस्तावेज की नकल तैयार करना या उससे उद्धरण लेना।

[संख्या एस-38014/11/87-एस एस I]

ए.के. भट्टारай, अवसर सचिव

स्पष्टीकरण जापन

इस मामले में छूट को भूलशील प्रभाव देना आवश्यक हो गया है क्योंकि छूट के आवेदन पत्र देरा से प्राप्त हुआ था। किन्तु यह प्रमाणित किया जाता है कि छूट का भूलशील प्रभाव देने से किसी भी व्यक्ति के हित पर प्रतिकूल प्रभाव नहीं पड़ेगा।

New Delhi, the 24th May, 1989

S.O. 1452.—In exercise of the powers conferred by section 88 read with section 91A of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby exempts the regular employees of The British India Corporation Ltd., Kanpur-208001 (U.P.) from the operation of the said Act for a period with effect from 1st January, 1989 upto and inclusive of the 31st December, 1989

The above exemption is subject to the following conditions namely :—

(1) The aforesaid factory wherein the employees are employed shall maintain a register showing the names and designations of the exempted employees;

(2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;

(3) The contributions for the exempted period, if already paid, shall not be refunded;

(4) The employer of the said factory shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred to as the said period), such returns in form and containing such particulars as were due from it in respect of the said period under the employees' State Insurance (General) Regulations, 1950;

(5) Any inspector appointed by the Corporation under sub-section (1) of section 45 of the said Act, or other official of the Corporation authorised in this behalf shall, for the purpose of—

(i) verifying the particulars contained in any return submitted under sub-section (1) of section 44 for the said period; or

(ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

(iii) ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

(iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory be empowered to :—

(a) require the principal or immediate employer to furnish to him such information as he may consider necessary; or

(b) enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found incharge thereof to produce to such inspector or other official and allow him to examine such accounts, books and other documents relating to the employment of persons and payment of wages or to furnish to him such information as he may consider necessary; or

(c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or

(d) make copies of or take extracts from, any register, account book or other document maintained in such factory, establishment, office or other premises.

[File No. S-38014/11/89-SS.I]

A. K. BHATTARAI, Under Secy.

EXPLANATORY MEMORANDUM

It has become necessary to give retrospective effect to the exemption in this case as of application for exemption was received late. However, it is certified that the grant of exemption with retrospective effect will not affect the interest of anybody adversely.

नई दिल्ली 8 जून, 1989

का. आ. 1453:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माइन्स लिमिटेड, ओर्गाव, के. जी. एफ. के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलूर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-5-89 को प्राप्त हुआ था।

New Delhi, the 8th June, 1989

S.O. 1453.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bharat Gold Mines Limited, Oorgaum, K.G.F. and their workmen, which was received by the Central Government on the 31-5-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL CUM LABOUR COURT, BANGLORE

Dated 22nd day of May, 1989

CENTRAL REFERENCE NO. 1/89

I PARTY

Sri. Moyan,
C/o The Senior Joint Secy.
B.G.M. Labour Association,
Oorgaum, K.G.F. 563120.

Vs.

II PARTY

The Managing Director
Bharat Gold Mines Ltd.
Oorgaum,
Kolar Gold Fields, 563120.

APPEARANCES :

For the I party Shri V. Gopala Gowda, Advocate.

For the II party Shri K. J. Shetty, Advocate.

AWARD

By exercising its powers under section 10(1)(d) of the I.D. Act, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its order No. L-43012/17/88-D.III(B) dated 23-12-88.

POINT OF REFERENCE

"Whether the Management of Bharat Gold Mines Limited, K.G.F. is justified in dismissing Sri Moyan, Ex-mechineman from service with effect from 18-9-86. If not, to what relief he is entitled?"

1. The first party workman has filed his claim statement and his contentions in brief are as follows :

He joined the services of the second party in 1976. He was working as a mechineman. He has worked honestly and diligently. A charge sheet cum show cause notice dated 2-8-85 was issued to him. He submitted his explanation dated 6-8-85. The management initiated a domestic enquiry by appointing one Mr. A. A. Doss. The enquiry conducted by him was an empty formality. It was against the principles of natural justice and the provisions of the standing orders. It is vitiated on several grounds. It appears that the enquiry officer had submitted a report finding him guilty. A second show cause notice was issued to him. He submitted his reply dated 11-9-86. Then he was dismissed by an order dated 1-9-86. He filed an appeal. The appeal has been dismissed. The findings of the enquiry officer are perverse. They are not based on legal evidence. On the basis of the evidence on record, no reasonable person could have arrived at the said findings. They are based on suspicion. The appellate authority has not applied his mind. He has been victimised. It is a fit case to invoke section 11A of the I.D. Act. Hence it is prayed that an award may be passed for his reinstatement and all the consequential benefits.

2. The management has filed its counter statement and inter alia it is contended as follows :

In a short span of service, it was found that he had indulged in a serious act of misconduct, of unlawful possession of 230 gms. of gold bearing mud, 14-1/2 gms of gold bearing sand and 6.600gms of mining sponge gold. A show cause notice dated 2-8-85 was issued to him. His explanation was not satisfactory. The disciplinary authority ordered for an enquiry. The enquiry officer held the enquiry as per the rules and the standing orders. It is denied that he was biased. The workman understood the charges and had given his reply. The charge sheet described all the material particulars. He was given copies of the relevant documents. A copy of the findings of the enquiry officer was given to him. The findings of the enquiry officer were supplied to him. He had given his reply, but it was unsatisfactory. He had preferred an appeal and the same was rejected on merits. Since the misconduct committed by him, involved moral turpitude, he was dismissed from service. The findings of

the enquiry officer are not perverse, but they are based on legal evidence. It is denied that he has been victimised. The order of dismissal is reasonable punishment. The reference may be rejected.

3. In view of the said pleadings a preliminary issue as shown below was framed.

"Whether the second party proves that it has held the domestic enquiry in accordance with law?"

4. The management examined one witness and has got marked Exs. M-1 to M-13.

5. The parties were heard on the preliminary issue.

6. By a considered order dated 3-4-89, it has been held that the second party has conducted the domestic enquiry in accordance with law.

7. The parties were then called upon to adduce evidence on test of the points and argue.

8. The first party workman has produced judgement of the Court of JMFC., KGF. It has been marked as Ex. W-1.

9. The parties have been heard on the merits of the case.

10. My finding on the order of reference is that the management of BGML, KGF was justified in dismissing Shri Moyan from service with effect from 18-9-86 and that he is not entitled to any relief.

REASONS

11. The first party workman has contended in the claim statement that the findings of the enquiry officer are perverse. The perversity has two tests. The first test is whether the enquiry officer has based his findings on any material which was not in-admissible in evidence. The second test is whether no reasonable person could have arrived at the finding compiled of, on the basis of the material placed before him.

12. The findings of the enquiry officer MW-1 A. A. Doss are at Ex. M-6.

13. The enquiry officer has discussed about the evidence of the witnesses examined before him, and has taken into account a copy of the Mahazar produced before him. Since then enquiry officer has taking into account only the evidence of the witnesses examined before him, and the Mahazar, which was produced before him, it cannot be said that he has based his findings on any material which was not legally inadmissible in evidence.

14. The learned counsel for the first party contended that all the independent Mahazar witnesses have not supported the case of the management and in that context, the enquiry officer should not have believed the evidence of the police witnesses and that he should have held that the management has failed to establish the alleged misconduct. In that context he relied upon the judgement of the criminal court Ex. W-1. Ex. W-1 shows that on 24-2-89 the principal JMFC at KGF has acquitted the first party workman and five others who had been prosecuted by the Robertsonpet Police for offence of the sections 379 and 411 IPC and sections 6 and 13 of the Karnataka Mining Act. In the criminal court, the criteria for conviction is that the prosecution shall have to prove the guilt of the accused beyond all reasonable doubt. In a domestic enquiry the procedure to be followed is not the same one as that has been laid down in the code of criminal procedure. It suffices if the enquiry officer holds the enquiry in accordance with the principles of natural justice and the procedure laid down in the standing orders. The standard of proof required in a domestic enquiry stands on a different footing than what is required in a criminal trial. In a criminal trial each point or fact or an event or a chain of events are considered with reference to the ingredients of the provisions of law, which makes the act or a chain of acts punishable. In a domestic enquiry the attention of the parties is directed to the ingredients of the misconduct as defined in the standing orders. The appreciation of evidence by the Enquiry Officer in a domestic enquiry would be akin to the appreciation of the evidence in a suit.

15. Secondly, in the criminal court the other accused persons were not the employees of the BGML. The witnesses have been examined in the criminal court after the lapse of

several years, whereas the witnesses have been examined in the domestic enquiry soon after the alleged act of misconduct. The facts and circumstances of the case as they appeared before the criminal court have been different from the facts and the circumstances as they appeared before the domestic enquiry. The observations or the findings made in Ex. W-1 are therefore not relevant for examining or scrutinising the report of the enquiry officer Ex. M-6.

16. As observed earlier, the matter is to examine and determine whether any reasonable person would have arrived at the findings, as arrived at by the enquiry officer on the basis of the evidence placed before him.

17. For the show cause notice Ex. M-1 dated 2-8-86 the workman gave his reply as per Ex. M-2. In the show cause notice Ex. M-1 it is described that it was reported that on 21-7-85 at about 10.00 a.m. he was found in unlawful possession of 223 grams of gold bearing mud, 14-1/2 Gms. gold bearing sand and 6.600 gms of mining sponge gold, when he was transacting the said material with certain persons in the house of one M. Moiddin Kutty alias Kala, Moddin in IV block, Robertsonpet, KGF, and that they were apprehended when the superintendent of police KGF with his staff had raided the house of the said Moiddin. It is alleged thus that he was guilty of misconduct under clauses 15(b) (23) and 15 (b) (34). In his explanation Ex. M-2 in para 3 the workman has alleged that a false case has been foisted against him by persons who were enigmatically disposed, and who wanted to harass him and who wanted to dismiss him from service. Now, in the claim statement there is no such allegation that WW-1, Moyan, the workman had some enemies or that they had foisted a false case against him with an intention to harass him and to see that he is dismissed from service. In the background of the aforesaid allegation, it requires to be seen whether the enquiry officer was justified in accepting the evidence of the management witnesses examined before him.

18. Ex. M-5 is the proceedings containing the evidence of the witnesses. The witnesses examined before the enquiry officer are PW-1 H. Krishna, PSI Robertsonpet Police Station, PW-2 M. S. Mahesh PSI Marikuppam police station, PW-3 G. Anand PSI Oorgaum Police Station, K.G.F, PW-4 Abdul Jaffar Khan, Head Constable, Robertsonpet police station, KGF, PW-5 H. S. Dwarakanath, Chemist, PW-6 M. Shanmugam Sub-inspector of phones, KGF, PW-7, N. Sreenivasachari gold-smith, PW-8 V. Hamza, PW-9 Abdul Gaffar, and PW-10 S. Bhaskara Rao, Superintendent of police KGF. The evidence of the aforesaid witnesses is to be found at pages 3 to 53 of Ex. M-5. Then there is the evidence of the workman Moyan himself. The workman, on his part has examined one C. M. Kutty and one M. R. Krishnan, and S. Ahmed. The case of the workman before the enquiry officer was that on 21-7-86, a Sunday he had taken milk to Bharati Hotel at IV block and when he was at the hotel at about 7.30 a.m. two police constables came there and asked him whether he is the son of a milk-vendor and he told them that he is a son of a milkman and that then they said that the Sub-Inspector of police of Robertson police station wanted him. He further states that when he questioned them as to why for he was called, they told him that he was adding water to milk and in that connection he was wanted. He further states that when he went to the police station along with them, the PSI asked him whether he was Moyan and he said that he was Moyan and then the PSI told him that there were complaints against him that he was adding water to the milk, and then he told him that it was false. He further states that the PSI then asked him to sit outside and at about 8 a.m. the SP and PSI came there and he was again questioned whether he was working in the mines and without any reason he was detained in the police station, till about 10.00 a.m. the next day. He further states that then he was taken to the SMFC along with four other persons in an autoriksha and that when he reached the court, he learnt that there was a case filed against him. The evidence of first defence witness C. M. Kutty is on the point that he was the manager of Bharati hotel and that on 21-7-85 at about 7.50 a.m. two constables came there and asked him who was the milkman Moyan and he then pointed to the workman as Moyan and then they told him that Moyan was adding water to milk and therefore they took him away. The

evidence of the second defence witness M. R. Krishnan is on the point that on 21-7-85 he had gone to Bharati hotel for tea and at about 7.15 a.m. two constables came there and told Moyan that he was wanted by the PSI and took him away. The evidence of the 3rd defence witness Sayyad Ahmed is on the point that on 21-7-85 he had gone to Bharati hotel for tea and at about 7.15 a.m. two constables came there and took away Moyan. At the end of the evidence of Moyan on page 58, he has been asked whether there is any enmity between himself and the police. He has stated that he has no enmity.

19. The evidence of PW-1, PW-2, PW-3, PW-4 and PW-10. The police sub-inspectors the Head constable and the superintendent of police shows that on 21-7-85 along with the panchas they raided the house of Kala Moiddin in forth block Robertsonpet at about 10.00 a.m. and found the workman Moyan along with the other accused such as Sayyad Mohammed, Babu, Abdul Rahaman etc. and that they were transacting in the said mining materials and therefore the mining material, along with the cash etc. were all seized and sealed under Mahazar and that all the accused and the properties were taken to the police station. Their evidence further discloses that one of those accused persons disclosed his identity as Moyan S/o Krishnan P.E. No. 130035, working in champion roof mines and residing at 143 Oorgaum dairy compound. In the cross examination of PW-1 Krishnan there is the following suggestion by the workman. (Page 8).

Quesn.—I say that the driver (By name Murthy) of S.P.'s car had put the gold by himself in the house of Moiddin Kutty ?

Ans.—No.

To PW-2 Mahesh there are the following questions and answers.

Quesn : I say that the Mahazar witnesses signatures were obtained in the police station ?

Ans : I deny it.

To PW-3 there are the following questions.

Quesn : Was the Mahazar drawn at the place of occurrence ?

Ans : Yes, Mahazar was drawn at the place of occurrence.

Quesn : Who all signed the Mahazar ?

Ans : Police Officers, staff and the panchas.

Quesn : What is the number of the house ?

Ans : Yes, the No. is 9.....

Quesn : To whom did you hand over the sample seal ?

Ans : To one of the panchas.....

Quesn : I say that 5 of us were forcibly taken from Bharati Hotel at 6.30 a.m.?

Ans : It is false.

20. If the case of the workman before the enquiry officer was that he alone was picked up from Bharati Hotel on 21-7-85 at about 7.15 a.m., suggestions have been made to PW-3 as shown above that himself and four other accused were forcibly taken away from Bharati Hotel and that too at 6.30 a.m. It is not the version of any of the three defence witnesses that at about 6.30 a.m. the four other accused had been taken away from Bharati Hotel by the police forcibly.

21. To PW-4 there are the following questions put by the workman :—

Quesn : Did you enter into the house ?

Ans : Yes, I along with the S.P. and PSIs and panchas and other police had entered into the house.

Quesn : Who wrote the Mahazar ?

Ans : One Mallikarjun, police constable 224 wrote it at the dictation of S.B. and S.L.

22. To PW-10 Bhaskar Rao, the S.P. there are the following questions and answers :

Quesn : Who wrote Mahazar ?

Ans : The station writer wrote the Mahazar as per my dictation. (Shri M. Malikarjun R.C.)

Quesn : How much time you take to write the Mahazar?

Ans : Mahazar was drawn between 10 a.m. to 1.30 p.m.

Quesn : I say the Mahazar was written in the police station?

Ans : No, it was written at the spot.

23. Looking at the aforesaid questions and answers elicited from the various witnesses, it would be obvious that the first party workman had personal knowledge about the incident which took place at about 10 a.m. on 21-7-1985.

24. The evidence of PW-5 H. S. Dwarakanath the chemist of the Central Assay shows that he found that the seized material was the mining property and it contained gold of the value of Rs. 16,117.17 paise. His evidence supports the evidence of the police personnel as discussed above.

25. PW-6 Shanmugam had not supported the management and his evidence is that on 21-7-85 he signed the Mahazar in the police station at about 5.30 p.m. He is a sub-inspector of phones, working in the telephone exchange K.G.F. and if the enquiry officer has not believed him in his statement that he had signed four blank papers, there is nothing strange. He also stated that the Mahazar was already written and there were already signatures of other panchas and he also signed it as a witness. Being an officer of the rank of a sub-inspector of phones, there can be hardly any truth in his statement that he signed the Mahazar already written without going through the same, and that in addition he signed on four more blank papers. The workman has cross-examined him and asked him whether he knew him earlier. The witness has stated that he did not know him earlier. As pointed out earlier, it is the case of the workman that from 7.15 a.m. of 21st July, 1985 till about 10 a.m. of 22nd July, 1985, he had been in the custody of the police in the police station. Still then it is not his case that he had seen PW-6 or that PW-6 Shanmugam had seen him in the police station in the evening of 21st July, 1985. I therefore find that there is no error in the appreciation of evidence if enquiry officer had not accepted the evidence of PW-6 Shanmugam.

The evidence of PW-7 Sreenivasachari, goldsmith is on the point that he had weighed the property concerned in the case. He states that he does not remember whether he had weighed any property concerned in the present case. Since there is the evidence of PW-5 Dwarakanath Assay, officer I do not find that any importance can be attached to the evidence of PW-7 Sreenivasachari, goldsmith.

27. PW-8 Hamza and PM-9 Abdul Gaffar, are the pancha witnesses and they have not supported the case of the management. They have stated that without knowing the contents of the mahazar they have signed the same.

28. The enquiry officer has preferred the evidence of the police personnel to that of PW-6, PW-8 and PW-9 and has arrived at a conclusion that the management has established the case that the first party workman was having with him, the mining material and he was dealing in the same. The enquiry officer has discussed about the evidence of the defence witnesses also and has arrived at a conclusion that the same cannot be believed. He has pointed out the suggestions made by the first party workman to some of the witnesses and has observed that the management had proved the charge against the workman.

29. The learned counsel for the I party contended that the FIR was not a document before the enquiry officer and that it cannot be taken into account. Eitherwise the FIR Ex. M-10 and the complaint Ex. M-12 from the record I find that the Mahazar Ex. M-11 and the aforesaid evidence constituted sufficient evidence for the enquiry officer to have arrived at the conclusion that the second party had proved

the misconduct. It is not the case of any party that the enquiry officer has taken into account Ex. M-10 or M-12.

30. The learned counsel for the first party argued that under sections 25 and 26 of the Indian Evidence Act, the statements made to the police are not admissible, and that the evidence given by the police personnel is not admissible. No statement alleged to have been made by the workman to any police official has been admitted by the enquiry officer in evidence. The submission does not hold water.

31. It was urged before me that status of a witness cannot be the criteria for accepting his evidence and that the evidence of independent pancha witnesses should have been preferred. The evidence of panch witnesses, in my opinion has not been rightly accepted. A witness who says that he has signed the document without bothering to go through the contents of the same can hardly be trusted as against a witness, though serving in the police department, against whom there is no such adverse observation. Within a couple of days of the issue of the show cause notice the workman has put forth the case that at the instance of his enemies who were out to harass him and see that he is dismissed the police have foisted the case. But there is no such suggestion made to any of the police personnel alleging specific ill-will, nor is their any suggestion made against any employee of the BGML to that effect. Status need not to be a criteria to accept or reject the evidence of a particular witness, but the facts and circumstances of the case would certainly indicate whether a certain witness is trustworthy or not.

32. It was pointed out for the first party that no search warrant had been obtained and that all the things were concocted. The police officers have explained in their evidence as to why no search warrant was obtained. The explanation is convincing.

33. The learned counsel for the first party argued that the witnesses do not agree as to from where the panchas were taken and as to how they were secured. There are minor discrepancies on the point as to where the panchas were secured, but, all the same, the witnesses are positive that the panchas were there with them, when the raid was made at about 10.00 a.m. Minor discrepancies do not affect evidentiary value of the evidence.

34. The learned counsel for the first party contended that there need not be any motive for the police and it is possible that the police have involved the workman on mere suspicion. The case of the first party workman is not that without any motive or any other cause he was taken from Bharati Hotel to the police station. It is not his case that he has been involved on mere suspicion and it is not the case of the first party that he has ever made any complaint to any higher authority that two police constables and the sub-inspector of Robertsonpet police station involved him in the present case only on the issue that there were complaints against him that he used to add water to milk. There is no suggestion to any witness to that effect. There is no case in that connection in the claim statement. The learned counsel for the first party submitted that suggestions made to witnesses may not be taken into account since the first party cannot be attributed with legal knowledge. The question is not whether he had the legal knowledge or not, but it is whether the enquiry officer has appreciated the evidence as placed before him in the proper perspective. If the workman has unwillingly put certain questions disclosing true facts, it cannot be said that the enquiry officer should have ignored them.

35. The learned counsel for the first party contended that the concerned property was not produced before the enquiry officer and was not identified by any witness. The first party workman has no case that the property seized by the police and produced before the criminal court, was not the mining property or that he had any connection with the same. His case is of alibi and there is not even a remote suggestion that the property seized in the case was not the mining property as defined in the Karnataka Mining Act.

36. The learned counsel for the second party, on the other hand argued that the findings of the enquiry officer are based on concrete evidence and that they are not perverse. On

going through the evidence I find that the enquiry officer was justified in recording the said findings.

37. It was submitted before me that he had put in several years of unblemished service and provisions of section 11A may be invoked and he may be given relief. The evidence on record shows that the property of thousands of rupees was involved in the illegal dealing and out of the several accused as could be seen from Ex. W-1, only the workman was the employee of the BGML. In that context, I am of the view that it is not a fit case to invoke the provisions of under section 11A. I find that the punishment of dismissal is appropriate.

38. In the result, an award is passed to the effect that the management of BGML was justified in dismissing from service Sri Moya with effect from 18th September, 1986 and that he is not entitled to any relief.

(Dictated to the stenographer, taken down by her, got typed and corrected by me).

B. N. LALGE, Presiding Officer
[No. L. 43012/17/88-D. III(B)]

सई थिबन १ जून १९८९

का. श्र. 1154—औद्योगिक विवाद अधिनियम, १९४७ (१९४७ का १४) की धारा १७ के अन्वये में, केन्द्रीय सरकार द्वारा भगवान दास एंड कंपनी, क्वारी धनबाद, कोटाल पोखर जिला साहिबगंज (बिहार) के प्रबंधन में सम्बद्ध निवासियों और उनके कार्यवाहों के बीच, प्रबंधन में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम में, धनबाद के पंचायत को प्रकाशित करता है जो केन्द्रीय सरकार का ३१-५-८९ को प्राप्त हुआ था।

New Delhi, the 9th June, 1989

S.O. 1454.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Bhagwan Das and Co., Quarry Owners, Kotal Pokhar, Distt. Sahibganj (Bihar) and their workmen, which was received by the Central Government on 31st May, 1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 15 of 1987

In the matter of an industrial dispute under section 10(1)(d) of the I. D. Act, 1947.

PARTIES :

Employers in relation to the management of M/s. Bhagwan Das and Co., Quarry Owners, Kotal Pokhar, Distt. Sahibganj (Bihar) and their workmen.

APPEARANCES :

On behalf of the workmen : Sri Jamuna Pd. Singh, General Secretary, Santhal Parganas Stone Quarry Workers Union.

On behalf of the employers : Sri Bhagwan Das, Owner.

STATE : Bihar

INDUSTRY : Stone

Dhanbad, the 24th May, 1989

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-29012/16/85-D III (B), dated, the 3rd December, 1986.

SCHEDULE

"Whether the action of the management of M/s. Bhagwan Das & Co. Quarry Owner, Kotal Kokhar, Distt. Sahibganj in terminating the services of Sri Jogesh Rajwar, Munshi employed in their Kotal Pokhar Dhanpara Stone Mine, P. O. Kotal Pokhar, P. S. Kotal-pokhar, Distt. Sahibganj is justified ? If not, to what relief the workman is entitled ?"

In this reference only the workman filed their W. S. documents etc. Thereafter several adjournments were granted to the management for filing their W. S. documents etc. But subsequently instead of filing the W. S. by the management both the parties appeared before me and filed a settlement under their signature. I heard them on the said settlement and I do find that the terms contained therein are fair, proper and beneficial to both the parties. Accordingly I accept the same and pass an Award in terms of the settlement which forms part of the Award as annexure.

Sd/-

L. N. SINHA, Presiding Officer
[No. L-29012/16/85-D.III(B)]

V. K. SHARMA, Desk Officer

ANNEXURE

BEFORE THE COURT OF THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 15 of 1987

An I. D. Case in respect of the Employees in relation to the Management of Stone Quarry of M/s. Bhagwan Das and Co. Quarry Owner, At & P.O. Kotalpukur, District Sahibganj and between Sri Jogesh Rajwar.

In obedience to your honour's Court letter No. 15/87(9) dated 12-2-88 and Ministry's Order No. L-29012/16/85, dated 3-12-86 D. III (B) under your honour's hand and Seal to appear before your honour's Court on the 2nd March, 1988 at 11 A.M. with required materials to resolve the said case, we beg leave to state herewith a joint document of compromise dated 18th April, 1985 which is self explanatory.

We have mutually settled this dispute on the 18th April, 1985. After that we have informed the Asstt. Labour Commissioner (Central) Patna to drop this matter. But unfortunately this dispute remained as before. A/D receipt Photocopy is enclosed herewith.

We attach herewith a Photostat copy of the mutual settlement held on the 18th April, 1985.

At last we beg leave to request your honour's Court to drop the matter as early as possible because there is no dispute between Sri Jogesh Rajwar and the Management.

Your honour's obediently.

Sd./- (Jaman Prasad Singh)

Sd./- (Bhagwan Das)

On Workmen behalf

On Management behalf